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DOCKET BEFORE THE COMMISSION

Docket No. 873

Investigation of Passenger Steamship Conferences Regarding Travel Agents

Pleadings, Orders and Related Matters

1. Order of the Federal Maritime Board (hereinafter the Board) dated November 2, 1959, entitled "Investigation of Passenger Steamship Conferences Regarding Travel Agents," consisting of two pages.
2. Order of the Board dated November 10, 1959, entitled "Notice of Investigation and of Hearing," consisting of two pages.
3. "Petition for Leave to Intervene and Two (2) Motions" filed by James F. McManus, dated November 23, 1959, consisting of five pages.
4. "Petition to Intervene" filed by Travelers Club, Inc., dated November 29, 1959, consisting of four pages.
5. "Application to Intervene" filed by American Society of Travel Agents, Inc., dated February 24, 1960, consisting of six pages.
6. "Petition for Leave to Intervene" filed by Mary R. McManus, dated May 10, 1961, consisting of two pages.
7. "Reply of Western Hemisphere Passenger Conference to Petition of James F. McManus for Leave

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to Intervene and Expand the Proceeding to Include an Investigation of Western Hemisphere Passenger Conference" dated December 7, 1959, consisting of four pages and "Affidavit in Support of Reply of Western Hemisphere Passenger Conference" dated December 4, 1959, consisting of four pages.

8. "Motion of Conferences to Dismiss or Deny Request of James F. McManus" filed by Trans-Atlantic Passenger Steamship Conference and Atlantic Passenger Steamship Conference, dated December 11, 1959, consisting of eight pages.
9. "Answer of James F. McManus to Motion of Conferences to Dismiss or Deny" dated December 14, 1959, consisting of two pages.
10. Order of the Board dated January 21, 1960, granting petition to intervene and denying two motions of James F. McManus, consisting of one page.
11. Ruling of the Presiding Examiner granting petitions to intervene of American Society of Travel Agents, Inc., and Travelers Club, Inc., dated March 15, 1960, consisting of one page.
12. Presiding Examiner's "Notice of Prehearing Conference," dated April 26, 1960, consisting of one page.
13. Presiding Examiner's "Notice of Postponement of Prehearing Conference," dated May 4, 1960, consisting of one page.

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14. Transcript of prehearing conference, dated June 14, 1960, consisting of forty-eight pages.
15. "Motion of American Society of Travel Agents for Production of Documents by the Respondent Lines and Conferences," dated June 21, 1960, consisting of nineteen pages, and letter dated June 24, 1960, containing additional arguments in support of motion consisting of two pages.
16. "Reply on Behalf of Respondents to Motion of American Society of Travel Agents for Production of Documents," filed by Trans-Atlantic Passenger Steamship Conference and Atlantic Passenger Steamship Conference, dated July 5, 1960, consisting of fourteen pages.
17. Presiding Examiner's "Ruling on Motion for Production of Documents," dated July 7, 1960, consisting of three pages.
18. "Motions & Demands" filed by James F. McManus, dated August 18, 1960, consisting of two pages, and attached "Exhibit A," consisting of one page.
19. "Reply of Respondent Steamship Lines to the Motions and Demands of James F. McManus," dated August 29, 1960, consisting of seven pages.
20. "Motion" filed by James F. McManus, dated August 31, 1960, consisting of three pages.
21. Presiding Examiner's "Ruling on Motions of James F. McManus, Intervener," dated September 14, 1960, consisting of two pages.

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22. Board's order denying motion of intervener James F. McManus to the extent not ruled upon by Presiding Examiner, dated September 28, 1960, consisting of one page.
23. Presiding Examiner's "Notice of Further Prehearing Conference," dated November 14, 1960, consisting of one page.
24. Presiding Examiner's "Notice of Enlargement of Time to File Replies," dated January 4, 1961, consisting of one page.
25. "Motion of American Society of Travel Agents for Depositions Based on Written Interrogatories and for Further Production of Documents by the Respondent Lines and Conferences," dated December 28, 1960, consisting of twenty-five pages.
26. "Reply on Behalf of Respondents to Motion of American Society of Travel Agents for Depositions and for Further Production of Documents," filed by Trans-Atlantic Passenger Steamship Conference, and Atlantic Passenger Steamship Conference, dated January 11, 1961, consisting of twenty-one pages.
27. "Reply of Public Counsel to Motion of American Society of Travel Agents for Depositions and Further Production of Documents by Respondents," dated January 5, 1961, consisting of four pages.
28. Subpena—served May 15, 1961, on H. Craig Cooper, President of Century Travel Service, Inc., consisting of one page.

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29. Subpena—served May 12, 1961, on Joseph C. Neufeld, President, Ambassador Travel Agencies, Inc., consisting of one page.
30. Subpena—served May 16, 1961, on Eugene Hammer, Manager, Roberts, Reilly and Sons, consisting of one page.
31. Subpena—served May 15, 1961, on Jean J. Newman, President, Travel and Study, Inc., consisting of one page.
32. Subpena—served May 15, 1961, on Manny E. Erber, Coronet Travel Agency, consisting of one page.
33. Subpena—served May 12, 1961, on John Stark Gorby, Stark Travel, consisting of one page.
34. Subpena—served May 24, 1961, on Max Allen, Ask Mr. Foster, consisting of one page.
35. Subpena—served May 25, 1961, on Ralph Edell, Brighton Travel Bureau, consisting of one page.
36. Subpena—served May 24, 1961, on Rabbi Hersch Kohn, consisting of one page.
37. Subpena—served May 24, 1961, on Louis Schenker, International Travel Bureau Inc., consisting of one page.
38. Subpena—served May 25, 1961, on T. J. Donovan, Cartan Travel Bureau, consisting of one page.
39. Transcript of further prehearing conference, dated January 12, 1961, consisting of pages 49 through 77.

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40. Presiding Examiner's "Notice of Hearing," dated January 17, 1961, consisting of one page.
41. Presiding Examiner's "Notice of Enlargement of Time to Furnish Information," dated February 24, 1961, consisting of one page.
42. Presiding Examiner's "Notice of Further Enlargement of Time to Furnish Information and Extension of Date for Exchange of Exhibits," dated March 27, 1961, consisting of one page.
43. Public Counsel's "Motion for Issuance of Order to Take Deposition," dated March 31, 1961, consisting of four pages.
44. Presiding Examiner's "Notice of Reduction of Time for Filing Replies to Motion for Deposition Order," dated April 3, 1961, consisting of one page.
45. Presiding Examiner's "Authorization to Take Deposition," dated April 7, 1961, consisting of one page.
46. Subpena—served May 15, 1961, on Gabriel Villa, Executive-Vice President, Blue Cars, Inc., consisting of one page.
47. Subpena—served May 15, 1961, on Manuel J. Gibbs, President, Gibbs Travel Bureau, consisting of one page.
48. Public Counsel's "Motion to File Enlarged Briefs," dated June 21, 1961, consisting of two pages.
49. Presiding Examiner's "Authorization for Increased Length of Briefs," dated June 28, 1961, consisting of one page.

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50. Presiding Examiner's "Notice of Enlargement of Time to File Briefs," dated August 25, 1961, consisting of one page.
51. Presiding Examiner's "Notice of Further Enlargement of Time to File Briefs," dated October 26, 1961, consisting of one page.
52. Opening Brief of Public Counsel, dated December 1, 1961, consisting of eighty-nine pages.
53. Opening Brief of American Society of Travel Agents, dated November 14, 1961, consisting of seventy-three pages.
54. Opening Brief to Examiner Arnold J. Roth on Behalf of Respondents Trans-Atlantic Passenger Steamship Conference and Atlantic Passenger Steamship Conference, dated November 15, 1961, consisting of 50 pages.
55. Reply Brief of Public Counsel, dated December 8, 1961, consisting of five pages.
56. Reply Brief of Respondents Trans-Atlantic Passenger Steamship Conference and Atlantic Passenger Steamship Conference, dated December 8, 1961, consisting of fifty-one pages.
57. Reply Brief of American Society of Travel Agents, dated December 8, 1961, consisting of twenty-two pages.
58. Federal Maritime Commission (hereinafter the Commission) order ordering record to be certified to the Commission for initial decision, etc., dated January 15, 1962, consisting of one page.

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59. Commission order vacating and setting aside order of January 15, 1962, dated February 7, 1962, consisting of one page.
60. Chief Examiner's "Notice of Reassignment," dated October 16, 1962, consisting of one page.
- 60(a). Initial Decision of the Hearing Examiner, dated January 24, 1963, consisting of seventy-one pages and transmittal letter dated January 28, 1963, consisting of one page.
61. "Motion to Enlarge Time for Filing Exceptions," of American Society of Travel Agents, dated February 1, 1963, consisting of two pages.
62. Commission order "Notice of Enlargement of Time to File Exceptions," dated February 5, 1963, consisting of one page.
63. Commission order "Notice of Enlargement of Time to File Exceptions," dated March 1, 1963, consisting of one page.
64. Commission order "Notice of Enlargement of Time to File Exceptions," dated March 27, 1963, consisting of one page.
65. "Exceptions of Hearing Counsel," dated April 5, 1963, consisting of ten pages.
66. Commission order "Notice of Enlargement of Time to File Exceptions," dated April 15, 1963, consisting of one page.
67. Memorandum of Exceptions and Brief of American Society of Travel Agents dated April 5, 1963, consisting of forty-eight pages.

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68. Exceptions on Behalf of Respondents to the Initial Decision of Examiner E. Robert Seaver and Brief in Support of Trans-Atlantic Passenger Steamship Conference and Atlantic Passenger Steamship Conference, dated April 5, 1963, consisting of forty pages.
69. Commission order "Notice of Enlargement of Time to File Replies to Exceptions," dated May 3, 1963, consisting of one page.
70. "Reply of Hearing Counsel to Exceptions," dated May 13, 1963, and consisting of nine pages.
71. "Reply Brief of Respondents to Exceptions and Briefs of American Society of Travel Agents and Hearing Counsel" of Trans-Atlantic Passenger Steamship Conference and Atlantic Passenger Steamship Conference, dated May 13, 1963, consisting of twenty-nine pages.
72. "Reply to Respondents' Exceptions" of American Society of Travel Agents, dated May 10, 1963, consisting of fifteen pages.
73. Commission order "Notice of Oral Argument," dated June 5, 1963, consisting of one page.
74. Commission order "Notice of Allotment of Time for Oral Argument," dated June 24, 1963, consisting of one page.
75. Transcript of Oral Argument, dated June 28, 1963, pages 1 through 108.

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76. Report of the Commission, dated January 30, 1964, consisting of forty-five pages, with order attached (one page).
77. Commission order transmitting page 13 for insertion in Commission Report, dated February 24, 1964, consisting of one page.
78. Motion of Respondents Trans-Atlantic Passenger Steamship Conference and Atlantic Passenger Steamship Conference for Extension of Time to File Modifications of Agreements No. 120 and No. 7840 and Rules Thereunder, dated April 14, 1964, consisting of seven pages.
79. Commission order "Extension of Time to Comply," dated April 30, 1964, consisting of two pages.
80. Opinion of Court of Appeals for the District of Columbia Circuit, 122 U. S. App. D. C. 59, 351 F. 2d 756 (1965).
81. First Supplemental Order of the Commission Following Its Consideration of Modifications Filed by the Parties to This Proceeding in Accordance With the Commission's Order of January 30, 1964; April 2, 1965, consisting of six pages.
82. Petition of Respondents for Reconsideration of Certain Parts of First Supplemental Order of the Commission Served April 2, 1965; April 30, 1965, 10 pages.
83. Reply of American Society of Travel Agents, Inc., to Respondents' Petition for Reconsideration of the Commission's Order of April 2, 1965; nine pages.

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84. Second Supplemental Order of the Commission Following Its Consideration of Petition Filed by the Parties to This Proceeding for Reconsideration of Certain Parts of First Supplemental Order Served April 2, 1965; July 2, 1965, four pages.
85. Motion of Respondents for Extension of Time to File Certain Modifications of Agreements No. 120 and No. 7840; July 28, 1965, 13 pages.
86. Denial of Motion of Respondents for Extension of Time to File Certain Modifications to Agreements No. 120 and No. 7840 and Third Supplemental Order; August 2, 1965, three pages.
87. Notice of Reopening of Proceeding; August 18, 1965, two pages.
88. Enlargement of Time for Compliance; September 1, 1965, one page.
89. Motion to Enlarge Time for Filing Briefs and for Waiver of the Requirement of Printing; September 1, 1965, two pages.
90. Enlargement of Time for Filing Briefs; September 3, 1965, one page.
91. Motion by Respondents for Suspension of Order Pending Judicial Determination of Respondents' Petition for Stay; September 10, 1965, three pages.
92. Reply of American Society of Travel Agents to Motion by Respondents for a Stay of the Commission's Order; September 17, 1965, eight pages, to-

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gether with Motion to Dismiss the Petition for Review of a Final Order of the Federal Maritime Commission; September 17, 1965, 19 pages, and Motion for Leave to Intervene; September 17, 1965, six pages.

93. Enlargement of Time for Filing Briefs; September 17, 1965, one page.
94. Respondents' Brief Pursuant to Notice of Reopening; September 17, 1965, eight pages.
95. Brief of Hearing Counsel on Reopening of Proceeding; September 21, 1965, 24 pages.
96. Opening Brief of American Society of Travel Agents in Reopened Proceedings; September 21, 1965, 47 pages; Appendix A, ASTA's Opening Brief to Hearing Examiner, 74 pages; Appendix B, ASTA's Memorandum of Exceptions, 49 pages; Appendix C, ASTA's Reply to Respondents' Exceptions, 16 pages.
97. Denial of Motion of Respondents for Suspension of Order Pending Judicial Determination of Respondents' Petition for Stay; September 28, 1965, two pages.
98. Respondents' Reply Brief on Reopening of Proceedings; October 8, 1965, 11 pages.
99. Reply Brief of Hearing Counsel; October 8, 1965, 12 pages.
100. Notice of Oral Argument; October 27, 1965, one page.

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101. Allotment of Time at Oral Argument; November 10, 1965, one page.
102. Transcript of Oral Argument; November 15, 1965, Volume I, pages 1 thru 130.
103. Report on Remand; July 20, 1966, 45 pages.
104. Order; July 20, 1966, one page.
105. Motion of Respondents for Stay and Extension of Time to File Modifications of Agreement No. 7840 and Agreement No. 120 and Rules Thereunder; August 23, 1966, four pages.
106. Reply of Hearing Counsel to Motion of Respondents for Stay; August 29, 1966, three pages.
107. Reply of American Society of Travel Agents to Motion by Respondents for a Stay and Extension of Time to File Modifications of Agreement No. 7840 and Agreement No. 120 and Rules Thereunder; August 30, 1966, four pages.
108. Denial of Motion for Stay and Extension of Time; September 12, 1966, two pages.

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Transcript of Testimony

1. Vol. I, pages 1-158.
2. Vol. II, pages 200-400.
3. Vol. III, pages 401-562.
4. Vol. IV, pages 563-711.
5. Vol. V, pages 712-915.
6. Vol. VI, pages 916-1077.
7. Vol. VII, pages 1078-1226.
8. Vol. VIII, pages 1227-1399.
9. Vol. IX, pages 1400-1556.
10. Vol. X, pages 1557-1706.
11. Vol. XI, pages 1707-1865.
12. Vol. XII, pages 1866-2028.
13. Vol. XIII, pages 2029-2121.
14. Vol. XIV, pages 2122-2317.
15. Vol. XV, pages 2318-2468.
16. Vol. XVI, pages 2469-2618.

Docket Before the Commission

Exhibits

1. Federal Maritime Board Agreement No. 120-76, dated December 21, 1960, consisting of one page front and back, Agreement No. 120-75, dated January 19, 1960, consisting of one page front and back and Agreement No. 120, approved February 12, 1929, as amended to December 22, 1958, consisting of thirty pages.
2. Board Agreement No. 7840-40, dated May 27, 1960, consisting of three pages front and back; Agreement No. 7840-39, dated May 20, 1960, consisting of three pages front and back; Agreement No. 7840-38, dated May 18, 1960, consisting of one page; Agreement No. 7840-37, dated May 5, 1960, consisting of two pages front and back; Agreement No. 7840-36, dated March 14, 1960, consisting of one page; Agreement No. 7840-35, dated March 1, 1960, consisting of two pages front and back; Agreement No. 7840-34, dated September 3, 1959, consisting of two pages front and back; Agreement No. 7840, dated approved August 29, 1946, as amended to December 22, 1958, consisting of two pages front and back; Atlantic Passenger Steamship Conference Agreement, dated February 12, 1946, consisting of sixteen pages front and back; and Annex 1 to Atlantic Passenger Steamship Conference, consisting of four pages front and back.
3. Trans-Atlantic Passenger Conference Rules, dated March 26, 1953, consisting of fifty-one pages.
4. Trans-Atlantic Passenger Steamship Conference Memo to the Lines, dated January 9, 1961, consisting of one page, and attaching Sub-Agency Memo No. 1436, consisting of seven pages.

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5. Letters and conference minutes relating to appointment of sub-agents, consisting of twenty pages.
6. Conference subagency file on Carmen A. Orechio, consisting of nineteen pages.
7. Conference subagency file relating to Gibbs Travel Bureau, consisting of sixteen pages.
8. Conference subagency file relating to United Travel Agency, Inc., consisting of twenty-four pages.
9. Conference subagency file relating to Exportair, Inc., consisting of thirty-three pages.
10. Document concerning application for subagency by Blue Cars, Inc., consisting of four pages.
11. Conference subagency file relating to Travel & Study, Inc., consisting of twenty-three pages.
12. Conference subagency file relating to Coronet Travel Agency, consisting of twenty-six pages.
13. Conference subagency file relating to Roberts Reilly & Sons, consisting of eleven pages.
14. Conference subagency file relating to Ambassador Travel Agencies, Inc., consisting of sixteen pages.
15. Conference subagency file relating to Ernst Esch, Ernst Esch Company, consisting of eleven pages.
16. Conference subagency file relating to Pertess Travel Agency, Inc., consisting of fifteen pages.
17. Conference subagency file relating to Stark Transport, Inc., consisting of eleven pages.

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18. Documents relating to deliberations of metropolitan area committees on subagency appointments, consisting of fifty-five pages.
19. Memo to the Committee on Control of Subagencies, dated May 15, 1961, of the Trans-Atlantic Passenger Steamship Conference, consisting of two pages.
20. Trans-Atlantic Passenger Conference. Confidential Memo to the Passenger Traffic Managers, dated October 22, 1958, consisting of one page.
21. Trans-Atlantic Passenger Steamship Conference Memo to Special Committee, dated January 19, 1959, consisting of one page.
22. Letter from D. I. Knowles, Secretary, Trans-Atlantic Passenger Steamship Conference, to Richard M. L. Duffy, Secretary, Atlantic Passenger Steamship Conference, dated February 26, 1959, consisting of two pages, plus enclosur , consisting of four pages.
23. Confidential letter from W. H. Roper, Secretary, Atlantic Conference, dated October 15, 1958, consisting of one page.
24. A group of documents relating to cancellation and reinstatement of subagency of Japan American Travel Agency, consisting of fifty-five pages.
25. Minutes of Trans-Atlantic Passenger Steamship Conference meeting on June 16, 1960, consisting of one page.
26. Letter from D. I. Knowles, Secretary, Trans-Atlantic Passenger Steamship Conference, to R. M. L. Duffy,

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- Secretary, Atlantic Conference, dated February 24, 1959, consisting of one page.
27. Letter from H. G. Craddock, Assistant General Passenger Manager, American Export Lines, Inc., to Don I. Knowles, Secretary, Trans-Atlantic Passenger Steamship Conference, dated April 30, 1959, consisting of one page.
28. A group of documents relating to deliberations of conferences with respect to the problem of airline competition, consisting of eighteen pages.
29. A group of documents relating to deliberations of conferences with respect to the problem of airline competition, consisting of fifteen pages.
30. Trans-Atlantic Passenger Steamship Conference memo to the Committee on Control of Sub-agencies, dated January 20, 1959, consisting of one page.
31. Trans-Atlantic Passenger Conference memo to the Committee on Control of Sub-agencies, dated September 13, 1956, plus a group of documents relating to Popularis Tours, consisting of forty-six pages.
32. Letter to Trans-Atlantic Passenger Steamship Conference from Levittown Travel Center, dated April 27, 1961, consisting of two pages.
33. Application for Sub-Agency, The Cunard Steam-Ship Company Limited, Donaldson Atlantic Line, one page front and back.
34. Application for Sub-Agency, Greek Line, one page front and back.

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35. American Export Lines, Inc., Agency Survey, two pages front and back.
36. Minutes of Meeting of the Atlantic Passenger Steamship Conference, dated March 10, 1960, consisting of two pages.
37. Trans-Atlantic Passenger Steamship Conference Circular No. 276 to sub-agents entitled, "Sub-Agencies Prohibited from Booking Passengers for Steamship Lines Not Members of the Conference," dated May 12, 1961, consisting of one page.
38. Letter from Gabriel Reiner, Cosmos Travel Bureau, Inc., to Trans-Atlantic Passenger Steamship Conference, dated May 13, 1961, consisting of one page.
39. American Society of Travel Agents, Inc., Bulletin #164, dated May 2, 1961, consisting of one page.
40. Federal Maritime Board, Tabulation of Responses to Questionnaire Regarding Travel Agents, consisting of eleven pages.
41. Letter from Clifford S. Morgan, Manager, Agency and Sales Department, United States Lines, dated September 30, 1960, consisting of one page.
42. Office Memorandum of Meeting of Committee on Control of Sub-Agencies, dated February 10, 1954, consisting of one page.
43. Trans-Atlantic Passenger Conference file relating to proposed change of ownership of Advisory Travel Service, Inc., consisting of fifteen pages.

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44. Trans-Atlantic Passenger Conference file relating to the Long Island Travel Service Corp., consisting of twenty-six pages.
45. Trans-Atlantic Passenger Conference file relating to the Journal Square Travel Bureau, consisting of nineteen pages.
46. Trans-Atlantic Passenger Conference file relating to Moritz Goldstein Travel Agency, consisting of twenty pages.
47. Trans-Atlantic Passenger Conference file relating to cancellation of Century Travel Service of New York, consisting of twelve pages.
48. Letter from Joseph Mayper, Chairman and Secretary, Trans-Atlantic Passenger Conference, to Harold Clark, Chairman, Holland America Line, dated March 24, 1954, consisting of two pages.
49. Trans-Atlantic Passenger Conference file relating to levying fine upon Hershy Travel Agency, consisting of twenty-three pages.
50. Deliberations of Atlantic Passenger Steamship Conference on levels of agents' commissions, consisting of ninety-five pages.
51. Trans-Atlantic Passenger Conference Lines Meeting No. 32; Office Memorandum—Special Committee; and Minutes of Regular Meeting of Committee of Philadelphia Representatives of Trans-Atlantic Passenger Steamship Conference Lines, consisting of eight pages.

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52. Extracts from meetings of the Atlantic Conference, consisting of nine pages.
53. Page of a document entitled "Additional Item—Air/Sea Relations (continued), dated October 9, 1950, consisting of one page.
54. Documents relating to Atlantic Passenger Steamship Conference's deliberations on the level of agents' commissions, dated January 9, 1951 to March 5, 1951, consisting of twenty-one pages.
55. Documents relating to Atlantic Passenger Steamship Conference's deliberations on the level of agents' commissions, dated March 6-15, 1951, consisting of ten pages.
56. Agent's Commission, dated March 17, 1951; and letter from H. B. Beaumont to Joseph Mayper, Trans-Atlantic Passenger Conference, dated March 17, 1951, consisting of two pages.
57. Documents relating to deliberations of Atlantic Passenger Steamship Conference on the level of agents' commissions, dated March 3-June 17, 1951, consisting of twenty pages.
58. Trans-Atlantic Passenger Conference Draft Rules of Procedure, dated September 17, 1951, consisting of two pages, and office memorandum dated September 25, 1951, consisting of one page.
59. Documents relating to deliberations of Atlantic Passenger Steamship Conference on the level of agents' commissions, dated February 13, 1952, to October 31, 1952, and consisting of eighteen pages.

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60. Documents relating to deliberations of Atlantic Passenger Steamship Conference on the level of agents' commissions, dated February 16, 1953, to June 24, 1953, consisting of fourteen pages.
61. Letter from K. F. Gautier, Assistant Vice President, United States Lines Company, to Joseph Mayper, Chairman and Secretary, Trans-Atlantic Passenger Conference, dated June 9, 1953, consisting of one page.
62. Documents relating to deliberations of Atlantic Passenger Steamship Conference on the level of agents' commissions, dated August 3, 1953, to November 2, 1953, consisting of seventeen pages.
63. Office Memorandum, Control Committee dated May 26, 1954, consisting of two pages; handwritten notes dated June 2, 1954, consisting of one page; Minutes of Trans-Atlantic Passenger Conference Meeting 404, dated June 3, 1954, consisting of one page; memo "Payment by Airlines . . ." dated June 3, 1954, consisting of one page; and a letter from V. Arnold to Joseph Mayper, dated July 2, 1954, consisting of one page.
64. Documents relating to deliberations of Atlantic Passenger Steamship Conference on commission where part payment collected by different agents, dated June 29, 1954 to May 10, 1955, consisting of twenty-two pages.
65. Documents relating to deliberations of Atlantic Passenger Steamship Conference on meeting with International Consultative Council of Travel Agents, consisting of nine pages.

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66. Documents relating to deliberations of Atlantic Passenger Steamship Conference on the level of agents' commissions, dated January 26, 1956, to December 6, 1956, consisting of twenty-seven pages.
67. Correspondence relating to meeting between Atlantic Conference Committee and International Consultative Council of Travel Agents in Paris on September 20, 1957, consisting of sixteen pages.
68. Documents relating to deliberations of Atlantic Passenger Steamship Conference on the level of agents' commissions, dated February 22, 1958, to November 7, 1958, consisting of nine pages.
69. File relating to proposed change of ownership of Allied Travel Service, Inc., consisting of twenty-three pages.
70. File relating to change of ownership of Atlas Travel Bureau, consisting of twenty-seven pages.
71. File relating to cancellation of subagency of R. F. Barr, consisting of ten pages.
72. File relating to change of ownership of Bankers Travel Service, consisting of twenty-three pages.
73. File relating to cancellation of subagency Bartlett Tours Company, consisting of twenty-three pages.
74. File relating to cancellation of subagency Belair Tours, Inc., consisting of eight pages.
75. File relating to change of ownership of Biltmore Travel Agency, consisting of eight pages.

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76. File relating to change of ownership of Central SS & Exchange Agency, consisting of forty-four pages.
77. File relating to cancellation of subagency of Walter C. Fell, consisting of eight pages.
78. File relating to change of ownership of Harney Travel Bureau, consisting of twelve pages.
79. File relating to change of ownership of Knickerbocker Travel Service, consisting of seven pages.
80. File relating to Marin Travel Service, consisting of twelve pages.
81. File relating to fine levied against Morrison Travel Bureau, Inc., consisting of five pages.
82. File relating to cancellation of subagency of W. G. and Dorothy K. Shaw, consisting of two pages.
83. File relating to transfer of subagency Troy's Travel Agency, Inc., consisting of seven pages.
84. Document dated December 21, 1953, of the Trans-Atlantic Passenger Conference relating to Hershy Travel Agency, consisting of five pages.
85. Letter from Joseph Mayper to W. H. Roper, dated July 16, 1953, consisting of two pages.
86. Trans-Atlantic Passenger Conference memo to the Passenger Traffic Managers, dated December 4, 1953, consisting of five pages, and Supplementary Agenda, dated December 7, 1953, consisting of three pages.
87. Office Memorandum, Control Committee, dated January 9, 1952, consisting of two pages.

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88. Letter from Joseph Mayper to Wm. Franklin Crum, dated August 22, 1949, consisting of one page; letter from Wm. Franklin Crum to Joseph Mayper, dated August 17, 1949, consisting of one page.
89. Memo re Committee on Control of Sub-Agencies, dated June 9, 1954, consisting of one page.
90. Deposition of Joseph A. Hollander, taken at 45 Broadway, New York, New York, on April 20, 1961, consisting of 157 pages.
91. Letter from Carel Stahl to D. I. Knowles, dated May 17, 1961, consisting of one page.
92. Letter from Frank J. Reiser to Donald I. Knowles, dated May 18, 1961, consisting of one page.
93. Letter from N. H. Hachohen to D. I. Knowles, dated May 19, 1961, consisting of one page.
94. Letter from T. K. Hebert to D. I. Knowles, dated May 23, 1961, consisting of one page.
95. Letter from J. P. Muldoon to Donald I. Knowles, dated May 24, 1961, consisting of one page.
96. Responses of Respondent Lines to Motions of American Society of Travel Agents and Public Counsel for Depositions, etc., dated April 3, 1961, consisting of eighty-five pages.
97. Supplemental Responses on Behalf of Certain Respondent Lines to Motions of American Society of Travel Agents and Public Counsel for Depositions, etc., dated April 24, 1961, consisting of eight pages.

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98. Trans-Atlantic Passenger Steamship Voyages sold in the United States (1)-1955-1960 incl., consisting of one page.
99. Confidential letter from F. E. Mead to The Secretary, Atlantic Conference, dated December 9, 1953, consisting of one page.
100. Atlantic Passenger Steamship Conference, Paris Agency Control, dated April 27, 1959, consisting of one page; Sub-Committee Meeting, Cannes, dated January 27, 1961, consisting of one page; Memorandum to the Lines, dated February 14, 1961, consisting of two pages; Minutes of Sub-Committee Meetings held February 20, March 7 and March 8, 1961, consisting of eleven pages; Minutes of Meeting of the Atlantic Passenger Steamship Conference on March 9/10, 1961, consisting of six pages.
101. Trans-Atlantic Passenger Steamship Bookings, Relationship of Total Bookings to Bookings through Subagents, 1955 to 1960, consisting of one page.
102. Trend of Bookings by Class, 1955-1960, consisting of one page.
103. American Society of Travel Agents, Comparison of Time Spent to Income Earned, consisting of one page.
104. American Society of Travel Agents, Comparison of Earnings per Unit of Time Spent, consisting of one page.
105. Ratio of IATA & TAPC to Total Commissions, 1955-1959, consisting of one page.

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106. American Society of Travel Agents, Transatlantic Steamship Share of Gross Bookings vs. Share of Gross Commissions, 1955-1959, consisting of one page.
107. American Society of Travel Agents Tours 1955-1959, Share of Gross Bookings vs. Share of Gross Commissions, 1955-1959, consisting of one page.
108. American Society of Travel Agents, Cruises 1955-1959, Share of Gross Bookings vs. Share of Gross Commissions, consisting of one page.
109. Definition of Metropolitan Territories, consisting of three pages.
110. File relating to Hettel Travel Service, consisting of twenty pages.
111. Trans-Atlantic Passenger Steamship Conference, Summer Season Periods for 1961, dated August 12, 1960, consisting of seven pages.
112. Form letter of acknowledgment to an applicant for appointment as a sub-agent together with memorandum dated April 18, 1961, consisting of two pages.
113. Sub-Agency Appointment Agreement, consisting of four pages front and back.
114. TAPSC Sub-Agents in Metropolitan Territories Have Increased by 36% since 1950, consisting of one page.
115. Sub-Agents on Eligible Lists in All Metropolitan Territories, consisting of one page.
116. In Metropolitan Territories Total Requests Approved for Changes in Ownership/Officers, Tradename or address of Sub-Agents, consisting of one page.

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117. Assessment of Liquidated Damages Against Sub-Agents in United States and Canada, consisting of one page.
118. File relating to Ask Mr. Foster Travel Service, Inc., consisting of eleven pages.
119. North Atlantic Steam Traffic Conference—Digest of Rules and Regulations, etc., consisting of two pages.
120. Atlantic Conference memoranda relating to Agency Commission, dated September 4, September 3, and October 15, 1958, consisting of three pages.
121. Hemphill Travel Service Inc., Revised Analysis of Steamship Department Losses in Last Ten Years, dated May 22, 1961, consisting of one page.
122. Letter from Price Waterhouse & Co. to American Society of Travel Agents, Inc., dated January 14, 1957, consisting of five pages, and exhibits consisting of fourteen pages.
123. Chart relating to five categories of agents and exhibits, consisting of ten pages.
124. Statistical Data on Participation of Active Members in the Study, Classified by Category of Volume of Business, and by Geographical Areas, etc., consisting of eight pages.
125. Statistical Data on Participation of Active Members in the Study, Classified by Category of Volume of Business, and by Geographical Areas, etc., consisting of five pages.

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126. Correspondence between Trans-Atlantic Passenger Conference relating to prohibition of sub-agencies from booking passengers on nonconference lines, consisting of nine pages.
127. Letter from A. M. Piscatella, Director of Trade Relations, American Society of Travel Agents, Inc., to Board of Directors, dated December, 1958, consisting of one page.
128. Letter from Edward Aptaker, Assistant General Counsel, Division of Regulations, Federal Maritime Board, dated March 30, 1961, consisting of one page, enclosing questionnaire, consisting of three pages.
129. Advisory Travel Service, Inc., Information Not Included in Exhibit 43, consisting of one page.
130. Allied Travel Service, Inc., Information not Included in Exhibit 69, consisting of one page.
131. Belair Tours, Inc., Information not Included in Exhibit 74, consisting of two pages.
132. Atlas Travel Bureau, Information not Included in Exhibit No. 70, consisting of one page.
133. Knickerbocker Travel Service, Inc., Information not Included in Exhibit 79, consisting of one page.
134. United Travel Agency, Inc., Information not Included in Exhibit 8, consisting of one page.
135. Letter from W. F. McGrath, Executive Vice President, American Society of Travel Agents, Inc., to Active, Active Associate, NRA and NRA Associate

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Members of ASTA, dated May 23, 1956, consisting of three pages.

136. Cancellation by Joint Action, dated January 12, 1959, consisting of two pages.
137. Inadequate Number of Passengers Booked in Metropolitan Eligible List Territories, consisting of one page.
138. Trans-Atlantic Passenger Steamship Conference, Total Passenger Carryings—*Eastbound* from the United States, consisting of one page; Trans-Atlantic Passenger Steamship Conference, Total Passenger Carryings—*Westbound* to the United States, consisting of one page.
139. Deliberations of Trans-Atlantic Passenger Conference relating to control over sub-agencies, consisting of eighteen pages.
140. Trans-Atlantic Passenger Steamship Conference memo to the Standing Committee on Control of Sub-Agencies, dated March 9, 1961, consisting of two pages.
141. Letter from D. I. Knowles to Blue Cars, Inc., dated April 7, 1961, consisting of one page; and letter from Gabriel Villa to D. I. Knowles, dated March 24, 1961, consisting of one page.

Commission Order of Investigation

At a Session of the FEDERAL MARITIME BOARD held at its Office in Washington, D. C. this 2nd day of November 1959.

DOCKET No. 873

INVESTIGATION OF PASSENGER STEAMSHIP CONFERENCES REGARDING TRAVEL AGENTS

WHEREAS, The American Society of Travel Agents has petitioned the Board to institute a proceeding to investigate the relations between travel agents and the Trans-Atlantic Passenger Steamship Conference (Agreement No. 120) and the Atlantic Passenger Steamship Conference (Agreement No. 7840); and

WHEREAS, Questions have been raised regarding the propriety of the activities of said Conferences insofar as they relate to travel agents; and

WHEREAS, It appears to be in the public interest to afford to all interested persons an opportunity to be heard in this regard;

NOW THEREFORE, IT IS ORDERED that an investigation is hereby instituted to determine whether aforementioned Agreements 120 and 7840 should be disapproved, cancelled, or modified, insofar as they relate to travel agents, in accordance with Section 15 of the Shipping Act, 1916 (46 U. S. C. 814); and

IT IS FURTHER ORDERED, That all parties to Agreements 120 and 7840 are hereby made respondents herein; and

Commission Order of Investigation

IT IS FURTHER ORDERED, That a copy of this order be published in the Federal Register with invitation to all interested persons to intervene and participate herein, and a copy served on each of the respondents herein; and

IT IS FURTHER ORDERED, That this proceeding be set for hearing before an Examiner from the Hearing Examiners' Office at a time and place to be announced.

By the Board.

(Sgd) James L. Pimper
Secretary

[SEAL]

USCOMM-MA-DC

Excerpt From Commission Prehearing Conference

Mr. Rowe: May I just ask a question on that? Will that require the production or the answering of the names of the individual lines, or will it be sufficient if we say the vote was 10 to 2 or something like that? Do we have to furnish to ASTA the names of the particular lines that were involved?

Examiner Roth: The names of the particular lines that are involved are named as respondents in this proceeding.

Mr. Rowe: Yes.

Examiner Roth: What are you concerned about?

Mr. Rowe: I am asking whether we have to disclose to ASTA, assuming this information is available—I don't know whether it is—whether we have to disclose to ASTA the names of the lines that voted against the commissions and the names of the lines that voted in favor of the commissions. This could be a competitive matter.

Examiner Roth: I am sure that it could be, but I don't see how we can get the information—and I deem it relevant—without making the disclosure. I contemplate that each of the lines will search its files with regard to each of these meetings and furnish a statement, with accompanying documents if there are any in their files, showing what action was taken with regard to each of the questions involved in these meetings. Otherwise we are operating in the dark. We have to determine whether or not the particular rules under investigation here operate to

Excerpt From Commission Prehearing Conference

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the detriment of the commerce of the United States or are otherwise in violation of the Shipping Act, and the only way we can do it is to find out precisely what happened. I am not too much concerned about any claims of confidentiality, to be very frank with you.

Mr. Rowe: Mr. Examiner, does this cover documents only in the United States?

Examiner Roth: I would not confine it to documents within the United States if that will be an excuse for failing to disclose the position taken.

Mr. Rowe: Well, to the extent that it does cover documents outside the United States, we of course would have to preserve the rights of the lines which have been asserted in other proceedings that they are not required to produce documents outside the United States.

Examiner Roth: If they don't produce them they lay themselves open to unfavorable inferences then. I will have to take that position.

Mr. Rowe: You understand that the lines will have to take that position, whether they want to in this case or not, because they have in other proceedings. So I don't think there should be any unfavorable inference on that. They have asserted that position in other proceedings, and in some cases they have been directed by the governments not to produce documents abroad. Naturally they will have to take the same position here.

Excerpts From Testimony

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[Mr. Blackwell, Hearing Counsel]

At pages 4 and 5 of the first prehearing conference in this matter, Public Counsel then advised the parties that the Board's investigation constituted a general inquiry into every facet of the relationship between travel agents and the two subconferences or the member lines of those conferences and that it was Public Counsel's intention to conduct a pervasive examination of every aspect of that relationship which directly or indirectly flows from the approval of these agreements by the Federal Maritime Board.

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DONALD I. KNOWLES—TAPSC Secretary—Direct

By Mr. Blackwell:

Q. Mr. Mayper left the Conference on February 1, 1959, and the Board investigation in this case was instituted on November 2, 1959. Have there been any changes of substance in Agreement 120 since that date, Mr. Knowles?

A. There have been no changes in the agreement—yes, there has been one, I believe, in connection with the withdrawal of a member line. I think the text of that particular clause in the agreement was revised. And it was filed and approved by the Maritime Board. There may have been others, I don't recall offhand. I would have to check the actual dates we filed them.

Q. How about changes in the rules themselves? A. Well, we are changing rules right along. I think we have made several changes in the rules since that time.

Donald I. Knowles—TAPSC Sec'y—Direct

Q. Could you enumerate them, please? A. Not offhand. I could name two we have changed. We changed, or we included a rule which provides for the payment of retroactive commission to applicants subsequent to their appointment. We have also abolished a rule which prohibited to a great extent the furnishing of literature to applicants for sub-
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agencies. I think it was an F rule.

Examiner Roth: Would you relate that to exhibits, and will you clarify precisely what rules you are talking about?

Mr. Blackwell: That is just what I intended to do, Mr. Examiner.

Where could we find these documents if we can find it at all?

The Witness: In the agreement and the rules that is printed.

By Mr. Blackwell:

Q. I show you Exhibits 1, 2, and 3. Can we find in either Exhibits 1, 2, and 3 marked for identification the rule relating to retroactive commissions? A. Exhibit 3, I think we have it there.

Q. Or 4? A. There has been a change in that one, too, a slight change recently. D-9 has been revised since February 1, 1959. That's in Exhibit 3.

Q. And that's page designated D-8-9? A. It is actually D-9. There are two rules on the page.

Q. Of Exhibit 3 marked for identification? A. That's correct. D-9 has been revised.

Donald I. Knowles—TAPSC Sec'y—Direct

Q. Prior to that revision, there was no allowance for
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retroactive commissions? A. No, not what you call retroactive commissions.

Q. Let's get this point cleared up, Mr. Knowles. When the conference uses the term "retroactive commissions," to what relationship do they attach? In other words, when would retroactive commissions be payable now when they were not payable prior to the promulgation of this rule?

A. Well, prior to the rule, an agent was required to hold the contract or the appointment agreement of the line at which time he could receive commissions on business he did for the line or on business that sailed subsequent to his appointment. Under the present rule, if an applicant in the metropolitan territory files an application through the Conference, we note that date of application. He subsequently is appointed within six months. When he is placed on the eligible list, that is, and then appointed by any one line, that line may then pay him the retroactive commissions from the date of his application to become a member. There is a maximum time period of one year.

Q. So, prior to the promulgation of this rule or, as you describe it, the revision of this rule, an agent who sold transportation on Conference lines prior to appointment could not under any circumstances receive commission, is that correct? A. Prior to the date of his appointment, that is correct.

Q. Now, since the revision, under some circumstances, he
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can receive commissions? A. Correct.

Donald I. Knowles—TAPSC. Sec'y—Cross

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DONALD I. KNOWLES—CROSS

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The Witness: That's right.

It is in the agreement No. 120, Exhibit 1, page 12, the rule being article (e), subparagraph (e).

By Mr. McManus [Travel Agent Pro se]:

Q. Can you let me know what the purpose of that particular provision is? A. Yes, sir. Subagencies cost the lines money. We bond all our subagencies. The individual carriers furnish agencies material. I think—I don't know—I have heard varying estimates of the cost of an agent to each line. We feel that we offer adequate services in the

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North Atlantic and in the Mediterranean areas. We feel that if another line wishes to utilize the services of our appointed agents in those routes that they could at least conform with the regulations that are laid down by the Trans-Atlantic Conference with respect to rates, conditions, free reduced rates and so forth.

Actually, in practice, the number of vessels which are employed in such routes are freighters. I think there is rarely an occasion where there is a passenger vessel in the trade. The amount of business done by the agent for such vessels would be relatively small from a practical standpoint.

But we do feel that the agents, perhaps, can be also protected in connection with the activities of lines who come in for one trip. We have an example now where I believe an outfit in Canada is advertising future sailings of vessels, requesting deposits of \$250 from agents, requesting passengers for \$25 deposits on a ship to be built some time in the future.

Donald I. Knowles—TAPSC Sec'y—Redirect

We have just recently issued a bulletin, Mr. McManus, calling the agents' attention to this rule. We feel it is not only for the protection of the agents, it is for the protection of the public from companies that might come in as a fly-by-night operator and fleece, not only the agents, but the public. And we think it is a good rule.

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Q. Well, when did the lines make a provision for the payment of a retroactive commission? A. I think it was March 8, 1960.

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DONALD I. KNOWLES—Redirect

Redirect Examination by Mr. Blackwell:

Q. Mr. Knowles, I'd like to clear up a few questions that have been brought up on cross examination.

Now, as to the carriers' eligibility for conference membership, all that is required, is it not, is—for membership either as a full-fledged member or an associate membership—that that carrier be a common carrier of passengers in the trading area served by the conference? Is that correct? A. The passenger carrier would be eligible for membership as we call it. A freight carrier only for associate membership.

Q. That's right, but they would have to be a common carrier of passengers within the confines of the trading area? A. That's correct.

Donald I. Knowles—TAPSC Sec'y—Redirect

Q. Now, you mentioned a Canadian company that has been soliciting various people about a potential service. Do you view that company as a serious threat to the standing of the conference and its member lines? A. Not at the present, no, sir.

Q. Why did you mention it? A. It's one of the reasons for the rule, Mr. Blackwell.

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Q. What rule? A. The rule that was discussed in connection with passengers being booked by agencies on competitive carriers.

Examiner Roth: Non-conference competitive carriers?

The Witness: Non-conference, yes.

By Mr. Blackwell:

Q. And the rule is designed to protect whom? A. I think in this instance it will protect both the agencies and the public.

Q. And how about the carriers? A. We're not too concerned about it.

Q. You're not concerned about it? A. Well, I mean a ship that's not on the drawing boards yet, that will not be built in 1962 or 1963, we're not particularly concerned at the moment, sir.

Q. All right. Let's take a ship in being and in operation and sailing non-conference. If the rule is invoked in this instance, who is protected by the rule? A. In the instance we're speaking of?

Q. No, in the instance I just gave you. A carrier in being and operating in the trans-Atlantic trade for the carriage of passengers, it being a non-member of your conference. A. Who would be protected?

Donald I. Knowles—TAPSC Sec'y—Redirect

Q. Yes. How is the public protected by the invocation

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of this rule and what do you mean by the public? A. I mean the traveling public in connection with what we have discussed. Now, with respect to what you bring up now, if a vessel, an actual operating vessel, is brought into the trade and is going to make a couple of voyages and then go out of the trade and while in they'd want to use all our facilities and our agents, I suppose you could indicate that the rule would protect our lines from that so-called competitive voyage.

Q. Getting back to the so-called protection of the public, is that the protection of individual passengers that you're concerned about? A. In the instance of the so-called Canadian company I think it would be, yes, sir.

Q. How about the instance of an operator in being? A. That could protect the public too, Mr. Blackwell. I think we had a case, Mr. Mayper can probably tell you more about it, some years ago of a ship coming into the port and soliciting bookings, collected about \$600,000, went bankrupt, and the public suffered.

As a matter of fact, I think he can tell you more about it than I could.

Q. Do you view the authority that the Federal Maritime Board has given you pursuant to Section 15 to enter this conference arrangement as an authority to protect the

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public interest? That is, the passengers traveling on ships?

A. I don't think it gives us that authority, no, sir.

Q. All right. Now, let's see. Does it protect the agent? And if so, how does it protect the agent? A. Well, again, in the present instance are you talking about the Canadian company, prospective company?

Donald I. Knowles—TAPSC Sec'y—Redirect

Q. I'm talking about a non-conference line that theoretically would be in competition, if we can use that term. A. Oh, a line in competition, I don't think it would necessarily protect the agent except in the case that I have just cited.

Q. It wouldn't necessarily protect the agent? A. Wouldn't necessarily protect the agent.

Q. As a matter of fact, isn't it possible the agency would be stronger by being able to get commissions from non-conference carriers? A. Well, at the moment I don't think so, no, sir. There is not any such thing except an occasional ship coming in for some cream.

Q. How are the lines protected? A. Well, the lines are protected in the matter of an agent who would represent a fly-by-night steamship company coming in on a quick operation.

Well, I can cite you an example of the Arosa Line which was a conference member.

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Q. That was a conference member? A. And the agents I believe suffered considerable financial loss in connection with that line. I think that could be a worse situation where a line came in and did the same sort of thing. It has happened.

Q. In the case of the Arosa Line that you mentioned, the fact that they were conference members didn't particularly protect anybody, did it? A. We were obligated to accept them as conference members on the agreement.

Q. But the fact was they were conference members and no one was protected? Is that correct? A. Everybody got stuck,

Q. And that does occur in business, does it not, Mr. Knowles? A. Including the conference. Yes, I guess so.

Donald I. Knowles—TAPSC Sec'y—Redirect

Q. Do you have any idea of the degree of participation that the trans-Atlantic conference carriers have in the carriage of passengers across the Atlantic compared to any other surface transportation? That is, water? A. Well, by degree of participation you mean how many other lines might be involved?

Q. Would I be very wrong if I said that approximately 99 per cent of the carryings by water across the Atlantic

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are carried by member lines of the trans-Atlantic passenger conference? A. That might be a pretty good estimate, yes, sir.

Q. It wouldn't be very far off? A. No, the freight carryings— They're very, very minimum.

Q. In fact, it could be higher than 99 per cent? A. Well, that's—I'd take that I guess.

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Q. Now, from your general experience in ocean transportation and particularly in regard to your travel duties with the Trans-Atlantic Passenger Conference, is it fair to say too that the travel agents as distinguished from the lines' own offices book the predominant or overwhelming amount of passenger carryings? A. It is fair to say that, yes, sir.

Q. Do you know whether it's the consensus in the shipping industry that the travel agents do perform a fairly efficient, economical job of selling transportation for ocean carriers? A. Oh, I think that would be the consensus, yes.

Q. Is there any reason that you know of that the same would not be applicable to travel agents performing duties for non-conference carriers? In other words, that non-

Donald I. Knowles—TAPSC Sec'y—Redirect.

conference carriers too, would they not, have to depend for bookings to a large extent on travel agents to remain in

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business successfully? A. I would assume that they would.

Q. Now, you mentioned in the question that Mr. McManus put to you that one of the reasons you thought the rule was reasonable was that if a non-conference line utilized the conference travel agents it's only reasonable to assume and fair to expect that they would conform to the practices and established procedures that the conference has laid down?

A. That's correct.

Q. Is that a correct framing? A. That's correct.

Q. So would I be correct in stating that as far as the non-conference rule is concerned it is an indirect device to get potential competitors to join the conference? A. I'd go further than that, Mr. Blackwell. I think it's an attempt to get the lines that would enter the trades to quote compatible rates, for example. If a line comes in and starts cutting rates, it would be harmful to the trade generally.

Q. In other words, you would want them to follow the practices, procedures, rates and other matters appertaining to passenger travel that the conference lines have agreed upon? A. Yes, sir.

Q. And you would want them to do that? A. Yes, sir.

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Q. And the rule is designed for that purpose, is it not? A. It may have been. I don't know. It was designed a long time ago before I was in the conference.

Q. Would you disagree that it has that effect? A. I just don't know.

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Donald I. Knowles—TAPSC Sec'y—Recross
Manuel J. Gibbs—Travel Agent—Direct

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Q. So to that extent that line is protected, is it not? If they see something in an agent's character or his ability to do business he does not have to do business with him, does he? A. Oh, the actual appointments are for each line certainly. Any line can refuse to appoint.

Q. So regardless of what the conference does, if it approves an agent for the eligible list, it is not mandatory for any member line to appoint that agent? Is that correct? A. That's correct.

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DONALD I. KNOWLES—Recross

By Mr. Sisk, ASTA Counsel:

Q. Mr. Knowles, just so the record will be straight, there are freighter lines which carry passengers across the Atlantic today in operation, are there not? A. Yes, sir.

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Q. You indicated in answer to a question earlier today that Caribbean cruises are not included within the scope of the TAPSC agreement. Is that correct? A. That's correct.

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MANUEL J. GIBBS—Direct

By Mr. Blackwell:

Q. Now, if you look at the third paragraph and the last three lines, you state that: "... but in all fairness to our travel agency we must of necessity to survive, push air

Manuel J. Gibbs—Travel Agent—Direct

transportation for which we are duly accredited and receive proper commission." What did you mean by that statement? A. Well, that's common sense in any business. If we are an accredited agent in any line of endeavor, be it travel or selling pencils, if we receive a commission for the work we're doing and I have a salary to pay for people, we'll naturally use our endeavor in order to receive a commission and pay our rent and be able to pay our employees.

—571—

We couldn't afford to take care of ship transportation complete line if we weren't getting paid for it.

Q. You're in business to make money, are you not? A. We hope to.

Q. How would one push air transportation, Mr. Gibbs, as contrasted to pushing sea transportation? A. It's salesmanship which would be similar to salesmanship in any other line of endeavor. It's a known fact that in the clothing business, for instance, if something is advertised the salesman will try to push a better suit of clothes, or whatever it happens to be.

The personnel, my associate and the girls in the office, wherever possible on international bookings, we would point out the speed and facility by the use of air and try to switch them over to air when we could.

Q. Is there a pool of travelers that can be switched, and if so under what circumstances? A. Well, we're a small agency so that my experience here would be limited. However, to the extent of our experience I would say that there are always a small segment of travelers who come in without having a preconceived notion of their means of travel who with proper swaying can be switched.

And some people, of course, where they have a limited amount of time, as a good travel agent you're in a position

Manuel J. Gibbs—Travel Agent—Direct

—572—

to point out to them that the time saved with air travel will round out their itinerary to the extent so that they can further the trip that they're trying to make.

Q. So that with a persuasive and an effective solicitation some amount of passengers could either be diverted from air to sea or some people who had not made up their minds could be persuaded to go by sea? A. To a limited extent.

Q. To an extent? A. Yes.

Q. You consider that lack of commissions was a handicap for you as a non-appointed agent? Is that correct? A. Well, it would necessarily have to be.

Q. Did you have any other handicaps as a non-appointed agent? A. We had a certain amount of difficulty with literature. As was pointed out to us by the lines, they could only forward most of the literature and schedules and sailing information to regularly appointed agents. They pointed out to us that there is a tremendous cost in keeping sub-agents on the books and that it was impossible for them to keep us on an active list until we were duly accredited.

—573—

Q. As a non-appointed agent located generally in the suburbs of the New York metropolitan area; did this cause you any handicap? A. It would to the extent that people could go to the line directly. We were fairly close in Jersey, or they could go to one of the surrounding communities. We do have agents within 6 or 7 miles who are appointed and who would have the right of writing tickets. So, certainly, without accreditation, you can't possibly have the standing of someone who is, in any line of business, not only in travel.

Q. Does your agency now hold tickets? A. Yes, to certain of the lines.

Q. When you sold tickets for certain of the lines that you now hold tickets for before your appointment, did this re-

Manuel J. Gibbs—Travel Agent—Cross

quire either you or some employee of your agency to make a trip to New York to pick the tickets up? A. If it was short-term, we would have to go in. If it wasn't, we would write and forward our check and receive the tickets and try to handle it in the same way as if we were properly accredited. It wasn't something you would tell your passenger if you wanted to keep him.

Q. This was not a problem that you have now, is that correct? A. No.

—574—

Q. And did the fact that you had occasionally either to make a personal visit to New York or write for tickets entail some additional expense? A. Necessarily additional phone calls, actual trips into the city, forwarding money. It does take time and effort.

Q. Now, do you know approximately your gross TAP sales for the year prior to your appointment? A. Not off hand. I don't know whether it is in the file here.

Q. Did you make a comparison between your sales the year before your appointment and the results immediately thereafter? A. They have definitely improved.

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MANUEL J. GIBBS—Cross

—595—

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By Mr. Neaher, Counsel for Petitioners:

Q. Now, since your appointment would you say that this prior practice or area—I won't call it a practice—of persuading passengers one way or another has changed to any extent? Now that you do get a commission on trans-Atlantic bookings, has it changed? A. Yes, in that we now do actual counseling. In other words, the situation of the passenger is definitely and completely foremost.

—596—

Q. Well, when you say you now do actual counseling, do

Manuel J. Gibbs—Travel Agent—Recross

you mean that you are becoming a more professional travel agent? A. With more tools to offer.

Q. Better informed about the advantages of steamship travel? A. That would be true. And also with experience we are better informed generally.

Q. But does the commission incentive play any large part in this change? A. It helps.

Q. Well, it helps. I think I'd agree. A. It becomes on an even par with our other forms of transportation. And then we do our best to satisfy the traveler's needs, be it ship, be it air, or whatever other form it may take.

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—607—

MANUEL J. GIBBS—Recross

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By Mr. Sisk:

Q. Has it been your experience that an employee needs more experience to handle sea bookings than air bookings? A. Yes.

Q. Now, you've been a TAPSC-approved agent for just a little bit more than one year. Is that correct? A. That's right.

—608—

Q. During that past year have you found that space has been readily available on the trans-Atlantic steamship lines? A. Well, it's a question of the meaning of "readily available." I don't think space is readily available at any time except completely off-season.

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Q. Now, does the obtaining of space take a great deal of time? A. Well, it entails the necessity of making a written

Manuel J. Gibbs—Travel Agent—Recross

application and either asking for a general guarantee within the particular type of service you want or asking for a specific location and then reanswering to that if it's available so that it would take more time than just making a
—611—

simple phone call for trip space—I'm sorry; for air space.

Q. And when the customer has asked you for one kind of space and you find that kind of space is not available, do you then have to sit down with the customer or the client and discuss the other kinds of space which are available?

A. Definitely. I mean if he wants tourist and there is only first class available, you can't spend his money without his permission.

Q. Do you find the same problem arises with respect to booking international air flights? A. Oh, I would say it's definitely simpler. You have two kinds of space available. There either is space or there isn't space.

Q. Do you consider in your business, Mr. Gibbs, that time is money? A. Very definitely.

Q. Did you have that in mind when you stated, as you did earlier in an answer given to Mr. Neaher, that booking of trans-Atlantic steamship space was now on an even par with booking of other space? A. That would be one of the things I had in mind, yes.

Q. You did have that in mind? A. Yes, sir.

Q. Well, does it take longer to book a trans-Atlantic
—612—

steamship passage than it does to book a trans-Atlantic air passage? A. Yes, because normally we can book trans-Atlantic air by a simple phone call.

Q. So that it really isn't on an even par with booking international air, is it? A. You mean with the amount of time that we have to spend in the office?

Gabriel Villa—Wholesale Travel Agent—Direct

Q. Yes. A. It would take more time for the ship, in that normally the procedure would be that we would have to follow it up either with a deposit form or a letter of application rather than just a phone call.

Q. So that it really isn't on an even par with international air? A. Timewise it would take more time.

Q. With respect to steamship lines for which you do not hold ticket stock, who does the actual making out of the tickets? A. The line.

Q. That saves you a little time, doesn't it? A. Yes.

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GABRIEL VILLA—Direct

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By Mr. Blackwell:

Q. And in the middle of the last paragraph, when you say, "In our role as approved sales agent for IATA we have done a great deal to promote sales; it has been of benefit to us to promote air sales because we have always been assured of our commission,"— A. Right.

Q. —what did you mean by that? A. Well, being an IATA-appointed agency and receiving a commission, of course, we try to push our clientele to the airlines.

Q. Because you receive no commission? A. No, because we do receive commission.

—626—

Q. I see. A. Well, I mean it's not the only reason. Also because we can get the space. It's just there are two important factors. One, we can get the space. And second, we can get the commission. And I think these two factors actually go side by side.

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John Stark Gorby—Travel Agent—Direct
Emanuel E. Erber—Travel Agent—Direct

—715—

JOHN STARK GORBY—Direct

By Mr. Blackwell:

Q. Did the Stark Agency consummate any material amount of bookings by water transport to Europe? A. I would say not at that particular time.

Q. Why not? A. In the first place we were not appointed.

Q. Well, how did that inhibit you from making bookings, —716—

sir? A. Well, probably the principal reason was that our customers didn't know we had—and of course we did not have—steamship appointments.

Q. Did lack of commissions play a part in this? A. Naturally.

Q. What other factors inhibited you from selling ocean transportation? A. I don't know of any others.

Q. Now, at what point between January 25, 1957 and your ultimate appointment or your ultimately being placed on the eligible list of the Trans-Atlantic Passenger Conference did the Stark Agency begin selling a material amount of ocean transportation? A. I would say in 1959.

Q. And what caused you to change your policy in that regard and why did you begin selling ocean transportation in that year? A. Well, in order to get the business and the appointment ultimately.

—745—

EMANUEL E. ERBER—Direct

A. Before we become members of the conference, if a travel agent—and I presume most travel agents did as I did—had a client came up and said, "We'd like to go by ship to

Emanuel E. Erber—Travel Agent—Direct

—746—

"Europe," we were interested in making a living and so we talked these people out of going by ship or we tried to talk these people out of going by ship and we sent them over by air because it meant money to us.

Naturally, when we became members of the steamship conference, we didn't exert that type of pressure on our clients any more because we were making our commission both from the steamship and from the air.

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A. Well, this is the discussion that we had just a moment ago, sir, that where we had people who came to us and decided that they wanted to go to Europe, invariably we tried to tell them to go by air, because we knew it was commissionable, whereby if they went by ship it was not commissionable.

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Q. Regardless of the time period involved in this production of \$101,000 worth of business for the airlines, is it possible for you to estimate, Mr. Erber, how much of this business could have been diverted to sea carriage if you had been appointed? A. It would be very difficult, sir. I would venture a guess if you wanted me to but with the understanding, sir, that it was a guess.

Q. A calculated guess based on experience? A. I would say easily between 25 to 35 per cent of it.

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Emanuel E. Erber—Travel Agent—Cross

—758—

EMANUEL E. ERBER—CROSS

By Mr. Sisk:

Q. Do you find that it takes more time to book a steamship passenger than it does to book an international air traveler?

A. Yes, it does.

Q. Can you give us any approximate estimate of how much more time it takes in terms of a comparison? Is it half again as much time, twice as much time, that sort of a comparison? A. I would say from three to four times as much time.

Q. In your business do you consider time is money, Mr. Erber? A. That's all I have to sell, sir.

—768—

Q. Mr. Erber, do you find there are passengers or potential passengers, clients who come into your travel agency, who are not set and do not have predetermined ideas as to

—769—

the way they want to get to Europe? A. Oh, yes, indeed.

Q. And do you find these travelers can be influenced to go by one method of transportation rather than another?

A. I believe so.

Q. Do you know whether your employees have in the two years in which you have been approved by the TAPC ever influenced any passenger who was not well set in his method of getting to Europe to go by air rather than by sea? A. No, sir.

Q. You just don't know? A. I would say, to the contrary, we have tried to influence them to go by sea rather than by air.

Emanuel E. Erber—Travel Agent—Cross

Q. Why is that? A. Because we feel that— Well, we feel that people going to Europe for a vacation, that the use of a steamship going either direct or in one direction would greatly enhance the vacation.

Q. And you do this despite the fact that it takes much more time to do a steamship booking? A. Unfortunately, yes.

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Q. In the past year, Mr. Erber, have you found spaces more available on transatlantic steamers than in the year preceding that? A. Yes, sir.

Q. Does this mean that there is somewhat less work involved for you when there is more space available? A. Oh, no. Oh, no. In selling a steamship space, sir, we find that there are certain procedures that we must follow. This is where our time is consumed. We must first make the reservation. We must submit that reservation to our client for approval. If it is approved, then we must prepare a deposi-

—771—

tory receipt after we get the deposit from our client. We submit this depository receipt to our client. He holds it until such time as we are in a position where we must ask him for balance of the payment. We then contact our client and ask him for balance of the payment. Sometimes he sends back the depository receipt; sometimes he doesn't. If he doesn't we must ask him for it. We submit this depository receipt with the balance of payment to our steamship company. This is time. This is effort. This you cannot curtail under the present circumstances. This is the way the books say it must be done. This is the way we do it. I presume all agents operate in the same manner.

Q. Does it also take more time in talking with the passengers about where the space is? A. Unquestionably, be-

Emanuel E. Erber—Travel Agent—Cross

cause every client wants to be on top deck in the middle of the ship.

Q. I gather from that remark, Mr. Erber, that probably a great percentage of your business is first class, your steamship business? A. I would say that certainly 80 per cent of my business is either first class or top cabin class.

Q. You just don't have much tourist business? A. Oh, yes, we do deal with poor people, too.

Q. But it is a much smaller percentage of the business? A. Yes, sir.

—772—

Q. One last question, Mr. Erber. In dealing with your clients or your potential passengers, what is your present policy with respect to their wishes? A. Wishes in so far as what is concerned, sir?

Q. Well, with respect to their interests. Are you looking out for their interests, too? A. That is why, sir, I go through all of this work in selling more steamship space even though I feel it takes so much more of my time, because I do look after the interests of our clients.

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By Mr. McManus:

Q. In other words, you say that in addition to the time the experience that you afford is of value? A. Mr. McManus, in discussing that all I have to sell is time it is taking out of context what we were discussing at the time. When I sell my time, I sell my experience, sir. I am not selling myself by the hour, but I am selling an individual client something that I already possess, the experience that I have gone through through all these years in making a successful agency. Now, when I say I sell my time I am

Jean Jacques Newman—Travel Agent—Direct

giving this man in that period of time of my experience and my background.

—775—

Q. In connection with the various time that you give, do you feel that because you have to discuss the particular ship, decks, and the accommodations in the particular cabins is the main factor in the time that is involved in your client, as opposed to just an ordinary seat upon an airplane? A. Oh, yes, this would have a great deal to do with it, sir.

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—796—

JEAN JACQUES NEWMAN—Direct

By Mr. Blackwell:

Q. Would you turn to the numbered document 129? In the latter portion of the second paragraph you refer to an attachment to your letter which gives, as you put it, a graphic illustration of your agency's progress, and you state:

"If that illustration shows a much larger portion via air carriers this is due to the fact that since early 1949 we have been approved agents of the International Air Transport Association."

Now, how did that fact influence your carryings? A. Influenced my carryings in that sense that while from the type of business that I particularly engage in my interest would always normally be to favor trans-Atlantic passages by steamship, I nevertheless had to forego that and to direct my tours by air.

Q. Why, sir? A. In the operation of study tours with an academic background or eligible for academic credit I would normally need to have a few days on a ship for a seminar session with the students. However, this is impossible by air. And it therefore will also by the same token

Jean Jacques Newman—Travel Agent—Direct

diminish the potentiality of selling certain tours where academic credits are involved because I cannot give sufficient time to the professor who would be the academic director of the tour for his lectures and for the particular pro-

—797—

gram that will introduce them to the program that is coming afterwards in Europe within the various countries.

Q. So at least on March 25, 1954 it was of direct benefit to you as a travel agent as well as to your patrons as students to have them routed by water carriers? Is that correct?

A. Definitely, sir.

Q. Was that done? A. It couldn't be done always, though to a certain degree it was done when at a certain specific period a student ship became available.

Q. Why wasn't it done on other occasions? A. On other occasions it couldn't be done because I could not spend more money in advertising in various media which are not only the press in which I advertise regularly but also the academic publications, college newspapers, which are lesser known by the operators of steamships, and pay for it and not get paid for it. I did not get any money out of it.

Q. In other words, you did not receive commissions for trans-Atlantic passages? A. I did not receive commissions.

Q. Are there any other reasons, Mr. Newman, why you did not use water carriers more extensively beside commis-

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sions? A. I don't think that there were any other reasons except that one.

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Q. And during this period you sold tickets on air carriers to Europe even though it was not to your best interests or your clients' best interests necessarily? Is that correct? A.

Eugene William Hammer—Travel Agent—Direct
Joseph Neufeld—Travel Agent—Direct

I would say from the point of view aside from the money there's the term of interest where as an agent I feel I can give the best service. I felt that I'm able to give the best service to a specific category of clients by routing them via steamship. Not being able to earn any money by it, I have diverted this by air.

—827—

EUGENE WILLIAM HAMMER—Direct

Q. Now, if you look at the next to the last paragraph of that letter in the second sentence you indicate that you're

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giving steamer bookings away but in the future you'll present the public with a different picture. What did you mean by that, Mr. Hammer? A. Well, a number of people that come in are more or less on the fence. They would like a trip. They're open to suggestion. And instead of offering a two-sided picture for their travel, if we couldn't ever hope to get the steamship commission or the appointment and thereby get the commission, we'd be ridiculous in selling steamship. We would do our darndest to sell air.

—860—

JOSEPH NEUFELD—Direct

A. Well, we in the travel business all feel that we are salesmen, and if a client comes in and discusses a vacation or a proposed trip we can either discuss steamship to an advantage or we can discuss air to an advantage. In our case, since 1954, until we received recognition we were

—861—

not promoting steamship travel because we couldn't work for nothing.

Joseph Neufeld—Travel Agent—Direct

Q. And it is your belief that if you had promoted it it could have been substantially increased, is that correct?
 A. Well, I feel that a certain percentage of our prospective clients might have been induced to take steamship one way or both ways.

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JOSEPH NEUFELD—CROSS

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By Mr. Sisk:

Q. Now, Mr. Neufeld, with respect to your testimony regarding the statement in your letter about \$350,000 worth of transatlantic business and the fact that you could have diverted some of that to steamship travel, what percent of the people who come into your agency are open minded or not set on the way they want to travel? A. Well, I have to break it down into two categories before I answer that. You have a commercial traveler and the pleasure traveler. Commercial travelers, most of them are set. Of the pleasure travelers, I would say perhaps 15 or 20 percent of those are open minded.

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By Mr. Neaher:

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Q. Mr. Neufeld, when one of these—I think you characterized them as open minded—clients comes in, what is the primary principle or policy you follow in attempting to influence them one way or the other in their transportation arrangements? A. You mean now?

Q. Yes. A. Something that is best suited for the client.

Q. That is the paramount thing? A. Paramount.

Joseph Neufeld—Travel Agent—Redirect

Q. And would I be correct to say that in some cases you think it is better for them to go by steamship than by air?

A. In some cases.

Q. And perhaps vice versa, but it operates both ways?

A. Yes.

Q. Do you find from your own experience that there are more cancellations of reservations occurring in the air transportation arrangements you make than in steamship?

A. Yes.

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JOSEPH NEUFELD—Redirect

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By Mr. Blackwell:

Q. Now, one of the first questions Mr. Neaher asked you on cross examination was what was your primary motive in selling transportation today in view of the traveler's needs, and you said, "Now?" And he said, "Yes." And when you said "Now" I presume you are speaking of the period after appointment? A. Yes, sir.

Q. What was your primary motive before appointment?

A. To sell as many air tickets as we could so we could earn a living.

Q. Because you weren't getting steamship commission?

A. Yes, sir.

Q. Would you consider it was a matter of survival to sell air? A. Yes.

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The Witness: Well, point No. 1 it is more easy to memorize flights to London, Paris or Rome. If a client comes in and discusses flights we can say there is a daily flight to London or daily flight to Paris or daily flight to Rome. On a steamship we can't do

Joseph Neufeld—Travel Agent—Redirect

that. We have to dig out the sailing schedule, a reference book, and find out what ships are sailing at what time to what ports. Then you have deck plans. There are no deck plans to contend with by air, but there are deck plans in first class, cabin class and tourist class on ships, and I feel that it takes a great deal more time to explain classes on steamship than it does classes by air. Then you have to arrange for deck chairs on a steamship. You have to arrange for dining reservations. This is all done by letterwriting.

—880—

In most cases the clients are going to have some kind of a bon voyage party, and that necessitates writing to the line and asking for setups and hors d'oeuvres. And then you have such a vast difference in the locations of space aboard ships that it takes some time as to telling a client where they should be at what rate, and so on and so forth. Then you have the deposit receipt, which you don't have on air. And then you have the frequency of paying the lines compared to the frequency of paying the airlines, steamship over air. In canceling with air, I have explained before it is comparatively simple, whereas with a steamship company you have to write an additional letter and ask for your deposit to come back and when you get the deposit run it through your accounting and return it to the client. I feel that making up the tickets on a steamship require more time, and I feel that the experience acquired by a person selling steamship over selling air is—requires much more experience to sell a steamship ticket to a client successfully, intelligently, than it does on an air ticket. I think that's about it.

Q. Do you have berthing problems with your ships between upper and lower berths? A. Yes.

Joseph Mayper—TAPSC Chairman & Sec'y—Cross

Q. Number of rooms in a particular berth? A. Yes.

Q. Do you have that on the air? A. No.

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Q. How about toilet facilities? A. You have that, too. There are rooms aboard a ship without facilities, and there are rooms aboard a ship with facilities. That comes under discussion, too. A client says, "Is it worth the extra hundred dollars to have facilities?" It requires time and conversation.

Q. Does the potential ocean traveler inquire about meals and social activities on a ship? A. Yes. That's another good point which I have overlooked. They ask you how to dress and how often you should wear a tux, what is the captain's table like, and how do you get seated at it, and the like.

Q. Do you find that one of the more normal and frequent questions is how much should I tip? A. Yes.

Q. Do you get this with airline passengers? A. No.

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JOSEPH MAYPER—Cross

—1085—

A. It is not the identical agreement because with the commencement of World War II the Atlantic Conference Agreement I think was formally terminated, and it was only after peace was declared that the Atlantic Conference Agreement was reconstituted. I had nothing to do with any redrafts in the reconstituted agreement.

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By Mr. Sisk:

Q. Mr. Mayper, when the Atlantic Conference has documents which it wishes to be filed with the Federal Maritime Board, does it send those documents through the office of the secretary of the TAPC for filing? A. It sends the pre-

Joseph Mayper—TAPSC Chairman & Sec'y—Cross

cise modification addressed to the Federal Maritime Board but sends the letter which accompanies the modification signed by the secretary of the conference abroad to the New York office for transmission to the Federal Maritime Board in Washington.

Q. And then the New York office sees that that modification or change or whatever it is is actually filed with the Federal Maritime Board? A. We simply transmit it with a covering letter.

Q. And it's your responsibility to see that it gets filed? A. Yes, sir.

Q. And do you keep a copy of these changes or modifications in your office? A. We usually get a carbon copy of what is being filed with the Board.

Q. Now, is there any other part of this agreement that you know of which may be said to relate to the control of agents outside the North American continent? A. I don't

—1105—

see it without going through very carefully.

Q. Now, do you know whether the Atlantic Conference has ever filed with the Federal Maritime Board any rules relating to the control of sub-agents outside the continental—well, outside of the North American continent? A. As far as filing for approval I believe this contains everything that had been filed as of the date of this agreement.

Any minutes that were adopted from time to time which may have related to agency matters were filed as part of the minutes of the meeting for information of the Board.

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A. The subcommittee usually met immediately before the date of the principals' meeting. They discussed the agenda

Joseph Mayper—TAPSC Chairman & Sec'y—Cross

of the principals and submitted their recommendations, if they had any, on the various topics that were on the principals' agenda. Now, apparently their comments or recommendations were not mimeographed for distribution at the meeting of the principals. It may have been issued in some typed form, because the principals' meeting followed immediately the following day of the subcommittee meeting, and subsequently as indicated here also for record purposes the Secretary issued this in mimeographed form, so that all of the lines abroad would know what it was.

—1130—

Q. Probably there was a typed copy of this? A. I am certain there must be something of that nature. It wasn't an oral report.

Q. And that typed copy was available at the principals' meeting on March 2? A. There is no doubt about that.

Q. What was the procedure in those days for getting matters on to the agenda of the principals? A. In between the meetings of the principals, a line that wanted something to be discussed at the principals' meeting would write to the Secretary, asking him to add to the agenda or to be placed on the agenda of the next principals' meeting this particular item. The Secretary would issue a temporary agenda based on these requests that he may have received during the in-between period between the meetings, and under their procedure all lines were given a certain period of time—I am not sure of the exact number of days—to advise the Secretary whether they had any other items other than those that had accumulated to be added to the agenda.

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The final agenda was then made up based on the original temporary one plus any requests from the lines during that intervening period. I think the final agenda was issued 20 days before the date of the meeting.

Joseph Mayper—TAPSC Chairman & Sec'y—Cross

Q. Could any one line get a matter onto the agenda? A. Yes, sir.

Q. It didn't need approval from the other lines? A. No, sir.

Q. To raise the matter? A. No, sir.

Q. Well, then, were the agendas reviewed by the subcommittee? A. Yes.

Q. And did they have to pass by the subcommittee in order to be considered at the principals' meeting? A. No, sir. The subcommittee— I recall occasionally an item on the principals' agenda and the subcommittee met just immediately before that meeting and to a certain item they'd say "no comment." It was something that they weren't equipped to handle or didn't care to handle. They left it to the principals entirely.

Q. But the subcommittee did not have the power to knock something out of the agenda of the principals' meeting? A. No, sir.

Q. The subcommittee functioned in a manner so as to —1132—
provide recommendations to the principals? A. Recommendations, data, points of view, things of that sort.

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Q. Now, do you know what the voting rule was within the subcommittee in order for a recommendation to go to the —1133—

principals' meeting? A. They usually indicated—not by voting rule as such—but they indicated what the views were. In one item they may say, "All lines agree that it is well to do so and so." Or they may say there was a feeling—that the views of the different lines were expressed, some wanted this, some thought this, some thought that.

Max B. Allen—Travel Agent—Direct

But there was no definite voting rule on these items for the agenda.

Q. Well, when there was to be a positive recommendation from the subcommittee, was it necessary that all of the members of the subcommittee agree to that recommendation? A. Well, may I turn to page 3 of this particular exhibit to show you?

Q. Yes. A. In one case they say here under Item 1: "Unanimity was not obtainable."

Now, take the next item, Item 2, reduced roundtrips. "It is recommended that this question be referred to the subcommittee for consideration" and so forth. Well, that was a unanimous recommendation.

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MAX B. ALLEN—Direct

—1256—

Furthermore, if you don't have the appointment and cannot secure compensation, you're very apt to sell the type of transportation that you can secure compensation for.

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Q. What is the commission that Ask Mr. Foster gets for placing a passenger on a point-to-point booking on a TAPC member line to Europe? A. Seven percent.

Q. And what do you get from IATA for a transatlantic ticket? A. Seven percent.

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Max B. Allen—Travel Agent—Direct

—1264—

By Mr. Blackwell:

Q. Mr. Allen, throughout the various branches of Ask Mr. Foster is more time and money generally spent in servicing a passenger who intends to take a trip to Europe by sea than by air? A. Oh, yes, yes.

Q. In what ways? A. Well, there is considerably more time spent in deciding upon a stateroom, and your deposit receipts, and your general ticketing procedures. If we had the business I think we could sell three air tickets when we sell one steamship ticket.

Q. Now, has this difference in service in these different modes of transportation had any effect on your production of bookings by sea? A. Well, from a company standpoint we do not encourage one form of travel over the other, but where the creeps into the individual sales person that is something that is very difficult to control.

Q. From your experience generally are there travelers going to Europe who could be swayed by either effective

—1265—

persuasion or promotion to travel either by sea or by air? A. Oh, yes, very simple.

Q. What are the factors that go into that type of persuasion or promotion? A. Well, in favor of steamship I think that some of our steamship friends have come up with some excellent slogans, such as "Getting there is half the battle," and this can be sold to the public very simply by judicious presentation of the printed matter, and the way of life going over on a steamer, contacts that can be made. I don't think there is any question but what the sales people in the travel industry have a great opportunity to sway people one way or the other.

*Max B. Allen—Travel Agent—Cross***MAX B. ALLEN—CROSS**

—1293—

A. The position was that we felt that there was a real need for the trans-Atlantic steamship companies to review their commission policy, that the time had long passed when that commission rate should have been increased.

We pointed out that the work involved, the various other factors going into the sale of steamship travel needed increased compensation over what was being paid.

By Mr. Sisk:

Q. And what was their response to that? A. The response was in many instances: "This will have to be referred to our presidents, our people overseas." And I'm sure that on occasions such information was referred, because on occasions the steamship people have indicated the question was discussed and that they were sorry that the commission had not—that they had not been able to arrive at a satisfactory conclusion to increase commissions but there was only one or two steamship companies that had held out and, of course, the unanimity rule made it necessary for all steamship companies to agree on the increased commission.

Q. In any of those instances did representatives of the TAPC lines indicate that they were in favor of raising the commission level? A. Yes.

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—1332—

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The Witness: Well, I was— Unfortunately, I can't tell you the exact date of this, but I was on a Cunard ship eight or ten years ago when either the passenger traffic manager or the assistant traffic manager said that he had been to a meeting and he said—

Max B. Allen—Travel Agent—Cross

this was a party, a cocktail party for the agents, and he said, "Look, I was out there. I advocated the 10 percent commission for you people." I can't tell you— Unfortunately, I can't tell you the date. I have a vague recollection of who made the statement, but I wouldn't even tell you that because I can't tell you that I'd be absolutely sure. But it happened.

—1333—

There must be many, people, agents and others, that were present and heard this speech.

Q. Mr. Allen, we can do no more than ask you for the best of your recollection, and if your recollection is such that you really cannot remember at all the name of the person, well then I think you should say so, but if you have a recollection of a name I think the record should show the name. A. Well, to the best of my recollection at the moment it was Vince Demo, Passenger Traffic Manager of Cunard, who made the statement.

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—1341—

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A. But that brings me back to the lead point, you see, that here is the sales force of the steamship industry and the steamship companies have done nothing about encouraging those agents to help them produce followers, to help them train sales people, to help them advertise, to increase the potential or increase business for the steamship lines.

By Mr. Neaher:

Q. Well, these are things you say they might do by way of training? A. These are things I think they should do if they are going to remain competitive in the industry.

Q. I am sure you have many good ideas, Mr. Allen. With reference to the expression by I think you said a

Ralph Edell—Travel Agent—Direct

Mr. Demo of Cunard going back some eight years ago, wasn't the commission paid to travel agents increased thereafter?

Mr. Sisk: I think there is a problem here, and that is that we haven't a very specific time period.

Mr. Neaher: I thought he fixed it in 1954 or 1953.

By Mr. Neaher:

Q. That is your best recollection of the time of this conversation, isn't it? A. That is correct, but the commission —1342—

indicated in the speech, as I recall it, was 10 percent.

Q. But was there an increase after the speech? A. That depends entirely upon how you wish to evaluate the adjustment in the commission rate.

Q. There was a change in the commission rate? A. There was a change. As to whether that benefitted the travel industry or not is still questionable, because there was a 7½ percent which was melded into a 6 percent and came up with a 7, you see.

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—1344—

RALPH EDELL—Direct

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By Mr. Blackwell:

Q. Would you say you service a good many customers who enter your premises without fixed convictions as to the mode of transportation they would like to use say to Europe? A. Yes.

Q. You have a choice of routing them by air or by ship, do you not? A. Yes.

Q. When you encounter a customer who does not manifest a strong desire to go by either air or ship, do you ever

Ralph Edell—Travel Agent—Cross

—1345—

try to promote that customer to go by ship? A. Are you speaking about me personally or the office?

Q. You personally and your staff. A. Well, there is a tendency on the part of the staff who have let's say one or two or three years' experience to try to sell air, since it is easier. They haven't been on ships. They have been on planes, and it is less complicated, and so on. If anyone asks for steamship, then naturally we tell them all they want to know about it.

Q. Do you personally engage in sales promotion in your company? Do you encounter passengers and service them?

A. Yes.

Q. You are the manager there, are you not? A. Yes.

Q. Do you also handle the ticketing? A. Yes.

Q. What is your personal policy regarding potential clients who do not manifest a particular desire to go to Europe either by plane or ship? A. There is no policy involved, but if it is easier to sell someone an air line ticket and if it is a tour where you make more money, there is a definite tendency to sell air travel.

Q. Is it in fact more difficult and does it take more time

—1346—

to sell a steamship ticket than an air ticket? A. We would estimate generally speaking three times as long over-all.

Q. Why is that? A. Well, when you sell steamship you have the class to sell, the ship, the decks, the berths, the inside rooms, outside rooms, facilities, length of crossing, and so on.

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—1348—

RALPH EDELL—Cross

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By Mr. Sisk:

Q. In your experience, how much experience is needed to be a good steamship salesman? A. I would say at

Louis Schenker—Travel Agent—Direct

least five years, simply because they are not only doing steamship, they are doing everything. From our viewpoint in our office, we feel five years at least.

Q. How does that compare with somebody who sells international air tickets? A. Well, as the previous witness mentioned you can always get those people from the air lines, but some who work for us, in a few months they are selling air line tickets.

Q. A lot easier to learn? A. Yes.

Q. As the manager of the operation, do you find that you get consulted more frequently with respect to one kind of transportation rather than another? A. Yes. Gen-

—1349—

erally speaking, if the sale turns more definite or bigger sale or if it is complicated, it is referred to me.

Q. And what kind of transportation is the most complicated and most likely to be referred to you? A. Steamship.

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LOUIS SCHENKER—Direct

—1378—

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By Mr. Smith, Hearing Counsel:

Q. Does a steamship booking take more time to complete than a comparable air booking? A. If it's done right it definitely does.

Q. Why is that so? A. Well, I can only speak for myself, or rather our type of business. We have a clientele which I suppose you would call in the upper bracket, and that's not necessarily moneywise, but they are the kind who when they travel by ship they want a great deal of service.

The first thing they might come in and sit with me for an hour or longer or any one of our staff and just discuss what class they should go in. Sometimes they have the

Louis Schenker—Travel Agent—Direct

idea that although they have traveled in first class, maybe they could save some money if they travel in cabin class, shall we say.

We then have to explain to them what they can expect in cabin class by comparison to first class.

We then come to the point where they want to decide that they would like to go on X date. Well, then we open up our official steamship guide and we see what steamship lines are going at that particular time.

—1379—

When we have decided on steamship X, we then have to open a plan and show them the rooms, the types of rooms and, as is normal with a person, they would like to get the most for their money and still not spend over necessarily, and therefore we must point out to them: "Well, this room bears such a rate, and that room bears such a rate," et cetera. And that takes a considerable amount of time.

Assuming that we'd finally convinced them of what they want, we then have to call the steamship line and find out whether such space is available.

Now, if it is something that, shall we say, this is January and they're talking about the end of June or July, we naturally have less trouble in picking out the kind of a room or close to it. But if you get into the months of shall we say April and you're asking for July, it becomes a little difficult. And sometimes we have to accept what is known as a guarantee—which means that they'll carry them on the ship.

Sometimes it will be no rate specified, which means that they guarantee but they don't know whether it will be a minimum, a middle range, or a maximum one. There are a great many things.

Louis Schenker—Travel Agent—Direct

Assuming that we've gone over that hurdle, we then have to make out a deposit receipt, assuming that the passenger has given us a deposit, and we send it to the
—1380—

line.

By that I mean we also have to put it into a trust account, because we cannot mix that money with any of our other monies.

We then give the original receipt to the client, because we are not allowed to keep any of those receipts.

It happens occasionally that the client losses the receipt when it comes to the point of payment, which means that we then have to—or the client—or somehow—I'm not quite sure whether there's a bond has to be put up—because until the receipt is found, at least for the life of a year or something like that.

Subsequently we issue the ticket, and again we have to go through the routine of depositing in this particular account, sending the net amount to the line, and so on down the line.

And I think I have spoken for at least five minutes just on that subject, so that gives you an idea of how long it takes to actually do it.

Q. Are your clients as a general rule experienced travelers? A. In most cases.

Q. Do you have customers who are open-minded as to the choice between sea and air for a trans-Atlantic passage?
—1381—

A. Yes.

Q. Do you influence them to go one way or another as a matter of course? A. That depends on the circumstances, because, first of all, we must serve the client's best interest, and when we're satisfied that we're doing

Louis Schenker—Travel Agent—Direct

that, then we think of ourselves. That's the most important thing. Are we going to make seven per cent or are we going to make ten per cent?

And since in many of our cases we have F. I. T.'s for them and when we sell them an air ticket we are entitled to get the extra three per cent which gives us ten per cent—that is, with certain rules and regulations which we live up to and they're easy enough to live up to—naturally we like to make ten per cent instead of seven per cent.

By the same token, we prefer to sell cruises on the same trans-Atlantic lines because we get ten per cent through just selling them a steamship ticket.

Q. Do you sell more international air than trans-Atlantic steamship? A. Oh, yes, a good deal more.

Q. Could your agency survive if all the trans-Atlantic bookings were by steamship rather than by air? A. Well, if we went into a hole instead of a nice-looking office and if we employed slave labor or something like that, perhaps

—1382—

we could survive.

Q. Do you do any business with non-conference lines? A. Never did, because I was told not to, and I live up strictly to the rules of all the conferences.

Q. Do you have customers that request passage on a non-conference line? A. Occasionally.

Q. What do you do in that case? A. We just tell them we're sorry, we don't sell them, or if we want to protect ourselves in a sense we tell them why they shouldn't travel on a freighter, because actually the cost of passage on a freighter is sometimes somewhat higher than what the tourist class is trans-Atlantic. They do not carry a doctor. We find many good reasons why we should try to sell them on the trans-Atlantic.

Louis Schenker—Travel Agent—Cross

But, on the other hand, we do lose some because that's what they want.

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LOUIS SCHENKER—CROSS

—1384—

By Mr. Sisk:

Q. In the course of your contacts with steamship representatives do you come into contact with the PTM's, the passenger traffic managers? A. Depending on the circumstances.

Q. You have on occasion met with Messrs. Liman, Pennington, Austin, Gautier? A. Yes, I know them quite well.

Q. Have you ever discussed the subject of commissions with these gentlemen? A. I personally never have on that point other than in personal conversation without making it official, because that subject was taken up by National ASTA and it was their function to do it in behalf of all the members rather than the chapter themselves.

Q. Now, on these personal talks with these gentlemen, did the subject ever arise? A. Oh, yes.

Q. And what did you say and what did— A. Well, generally speaking, it's become almost a joke, because it's been going on, shall I say, for the last 20 years or longer. And so I'd say, "Well, when are we going to get that

—1385—

famous ten per cent commission?"

And laughingly whoever it may be would probably turn around and say, "Well, we're getting there. We're getting there."

Or else they'd say, "Well, so far as I'm concerned I'd be very glad to be for it. In fact, most of the members are. But then there is a unanimity clause and there's somebody who says no, and that means that we can't do it."

Thomas J. Donovan—Travel Agent—Direct

I would then say, "Who's the nigger in the woodpile?"
But they'd never tell me.

THOMAS J. DONOVAN—Direct

—1416—

By Mr. Sisk:

Q. Now, what has been your experience with the people who want to travel to Europe? Have you found in the course of your business that you are able to influence potential travelers to go by one means of transportation rather than another? A. Oh, I think every travel agent does that.

Q. And of the potential travelers that come to you seeking to arrange for transportation to Europe, about what per cent would you say are subject to being influenced to go by one means of transportation rather than another? A. I would say currently it probably runs 50 to 60 per cent of all the people you talk to that are persuadable.

—1417—

Q. What has been the experience of your agency with respect to the amount of time involved in handling steamship bookings as compared to the amount of time involved in handling international air bookings? A. I would say that my estimation is it probably takes ten times as much

—1418—

time to process a steamship booking from inception to completion over the issuance of an airline ticket, and that's considering the selling and everything else.

Now, that doesn't pertain in every case. Some cases are worse. But generally I would say it takes about ten times as much man hours to complete the booking.

Q. In your business do you consider that time is money?

A. Oh, it's the only thing we've got to sell, plus knowledge.

Thomas J. Donovan—Travel Agent—Direct

—1430—

Q. One last question, Mr. Donovan, with respect to your promotional activities. Does the amount of commission which you receive on TAPC bookings have an effect on the amount of promotion which you do? A. Very definitely.

Q. What is that fact? A. We don't do as much. We can't afford it.

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—1444—

Q. What was the response? A. Well, the chairman of the meeting as far as the carriers was concerned said that they again couldn't have any minutes, that they wanted

—1445—

to keep this on the same informal basis that it had been run in the past, and we told them that because we had done a terrific amount of research work and surveys with all the agents in this country that we definitely wanted to have minutes taken, because we felt that the change in commissions that had taken place that previous spring were nowhere satisfactory as far as we were concerned, and that we were still insisting on a differential commission paid to Canadian and American agents. We were told we could not have any minutes or the meeting would have to disband, and the statement was further made that we can never have any minutes as long as you have those anti-trust laws in the United States.

Q. Who made that statement? A. Mr. Whitehead, Cunard Line. He was the chairman of the carriers.

Q. And he made that statement in the presence of the other people who were there from ASTA and ICCTA?

A. Yes, sir.

Q. Well, what was the result of the 1957 ICCTA meeting in so far as your request for higher commissions was concerned? A. Nothing to this date.

Thomas J. Donovan—Travel Agent—Cross

Q. Now, you made a reference earlier today to the fact that you refused to go to another ICCTA meeting. When was that? A. Fifty-eight.

—1446—

Q. Why did you refuse to go? A. I just felt we were beating our head against the wall. We had gone three years. We had used everything that the power of speech has to impress upon these folks the necessity of what we were asking. Mr. Piscatella had in his presentation in '57 written to the Bureau of Labor Statistics in Washington, and we had come up with a report on 28 cities throughout the United States showing what the wage scale and salary brackets were in the 28 cities. And I had asked many, many people in not only the steamship business but the air line business, hotel and agency business throughout Europe, and I had yet even as late as my last trip, which was last year, to have anybody tell me that they pay a secretary more than \$150 a month. And I felt that our destinies were being controlled by people who were paying that kind of salary and couldn't comprehend that we had to pay the salaries we do in this country.

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THOMAS J. DONOVAN—CROSS

—1449—

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By Mr. Blackwell:

Q. During any of these meetings with the Atlantic Conference were you ever told by any of the representative lines or the Conference officials that the Atlantic Conference in fact had achieved a majority vote on the question of commissions but were not able to achieve unanimous agreement? A. I have heard a statement—

Mr. Neaher: I think we are getting into an area here where we ought to be a little more specific.

Thomas J. Donovan—Travel Agent—Cross

First of all, I think we ought to have a yes or no answer. Perhaps the answer will be "yes" in view of the witness' preliminary remarks, but let's establish that.

Mr. Blackwell: I want to know how we can establish it unless the witness answers the question, Mr. Neaher.

Examiner Roth: I will overrule the objection.

Mr. Blackwell: Will you read the question back, Mr. Reporter?

(The reporter read the pending question.)

Mr. Neaher: May I have a yes or no answer with

—1450—

respect to that first?

The Witness: Yes.

By Mr. Blackwell:

Q. Would you explain your answer?

Mr. Neaher: I don't think it needs any explanation.

By Mr. Blackwell:

Q. Who told you, Mr. Donovan? A. Well, I can't remember. I have heard several steamship men make the statement that we have to convert two or three members of the Conference.

Q. Where were the statements made to you? A. In London and in Paris.

Q. During meetings of the Atlantic Conference? A. Not during meetings. It would be either at a lunch before or cocktails after.

Q. Do you know the lines that these gentlemen represented? A. I am almost certain that the United States

Thomas J. Donovan—Travel Agent—Cross

Lines was involved in leaving that connotation, and also Cunard Line.

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—1453—

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Q. Let the record show the correction. Breaking into the third paragraph, it states that ICCTA proposed that all agency appointments in the United States and Canada should be subject to Conference control. What was the foundation for that proposal, Mr. Donovan? A. Well, I think it is the position of ASTA, and it is my personal

—1454—

opinion, that the Conference is the only *modus operandi* to run a respectable business. The carriers and the principals must have some control over their salesmen and their agents, and you just can't have anybody who owns a banana stand and a ball point pen selling steamship tickets or air tickets or any other kind of travel.

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—1465—

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A. All right. Now, just a moment. For example, if I run a tour to Europe and I sell you a ticket for you and your wife, unless I have you on a prearranged tour which has a code number, my income is seven per cent from the carrier.

By Mr. Neaher:

Q. From the steamship carriers? A. No, from the airline carrier.

Q. From the airlines as well? A. But the minute I

—1466—

put out a tour folder and have a number on it, they automatically pay me ten per cent on that ticket.

Thomas J. Donovan—Travel Agent—Cross

Q. I see. A. So that is why I'm in the tour business—because I can increase my income 30 per cent off the transportation.

Q. I think that's a very wise decision on your part. I'm not quarreling with it in the slightest.

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—1474—

Q. So what I'm getting at is you gave a relative estimate that it took ten times as much time to process a sea booking as against an airline ticket and I wondered just what you included in the time. A. The time is putting your

—1475—

request in for space and normally having to wait until such time as they tell you what you're going to have for the passenger.

Q. Yes, but during that waiting time you're not just waiting to— You're not doing nothing waiting to hear from them. What I'm concerned about is: Does the actual mechanical process of effecting a booking through to completion take ten times as much time as it does to put an airline reservation through? A. I would say an absolute minimum of five per cent on the paper work. An absolute minimum of five times as much work on the paper work to get a steamship booking, get your deposit receipt issued, your actual ticketing, and explaining the type of accommodations on the ship, and the price range, and so on.

It is very, very rare that anybody ever goes in to a travel agency office and says that, "I want to pay"—or that they want to go first class and you can get generally what they want right off the bat.

Q. But the actual ticketing procedure you would now say might take five times as much as an airline? A. The ticketing, but there's also many phone calls and letters

Thomas J. Donovan—Travel Agent—Redirect

that have to be written, which you have nothing to do like that with an airline.

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THOMAS J. DONOVAN—Redirect

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—1489—

By Mr. Sisk:

Q. But this part of your discussions with these potential travelers which involves only the way of getting to Europe is more time spent with one kind of transportation than with the other? A. I would say definitely, because your explanation of air travel across the Atlantic is that you have currently a DC-8, you have got a Botania, and you have got a 707, and right now you have a problem of explaining what a turbo fan is. When you get down to ship, you are always explaining the positioning of the stateroom on the ship, whether it is inside or outside, whether you are buying a port side going over or starboard side going over and port side coming back. In other words, this is all part of your deal of selling, and this is what complicates the situation. You may get a very

—1490—

satisfactory room in one direction and a very poor one in the other direction, and then you have to explain to them why. And then the other thing that our people are getting killed with are guarantees, which is very good as far as the passenger is concerned, and it is good as far as the steamship line is concerned, but it is like trying to explain a lease to a customer, to explain that they are not getting the business when they take guaranteed space.

Q. Perhaps you can explain that to me. I don't know about that. A. Well, the shipping line—I don't know what the ratio of turnover on reservations is, but I wouldn't be a bit surprised that on cruise ships, for example, it may run as high as 70 percent, where a person especially on the sea-

Thomas J. Donovan—Travel Agent—Redirect

board on the East and the West Coast who are more cognizant of ship travel and the requirements and necessity of making earlier reservations will make a reservation today for a trip going maybe to the South Pacific a year from next spring. I just had a case in the office the other day of a very wealthy woman trying to get on a North Cape cruise on the Gripsholm in June this year. We are trying to get her on a Greek island trip on the same ship next March, and trying to get her on the South Pacific cruise in '63, and also on the North Cape in '62. They want two single rooms. Now, we will list it with the steamship line, and they will do everything possible to try
—1491—

to get it, but they have to observe a priority. But they are liable to come along and say, "Well, we are going to have so many cancellations, so we will guarantee at a certain rate." And then the steamship lines always provide that kind of accommodations or better. But this is like selling a pig in a poke to somebody, asking will you buy a suit and pay \$300 for it and you are afraid you are going to end up with one of these jobs for \$39.50. But the steamship lines are always going to give you the \$300 suit. Figuratively you may get one for \$350 or \$375. So that gives them an opportunity to run a higher load factor. But the explanation of this takes a long time, and everybody is always apprehensive about it.

Q. So that with respect to the explanations relating to the portion of the trip across the Atlantic and back, and only that portion of the trip, does it take more time, of your time personally, to do one kind of travel than the other? A. Yes, definitely.

Q. Which travel takes the more time? A. The ship travel.

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E. I. Liman—Holl.-Am. L. Pass. Traffic Mgr.—Cross
Donald I. Knowles—TAPSC Sec'y—Direct

—1501—

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Mr. Sisk: . . . "If additional travel agent witnesses were to be called by counsel for ASTA, their testimony with respect to the operations of travel agencies and the sale of steamship and international airline tickets would be substantially similar to the testimony of the travel agent witnesses now of record."

Is that agreeable to you, Mr. Blackwell?

Mr. Blackwell: I will so stipulate.

Mr. Neaher: I will so stipulate.

Mr. Sisk: Thank you.

Examiner Roth: The stipulation is accepted.

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E. I. LIMAN—Cross

—1824—

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By Mr. Neaher:

Q. Mr. Liman, when you were speaking about that \$100 cost for agents, keeping them on the list, is that an annual expense, \$100 a year? A. That's my rough estimate of what it costs us to provide him with literature, posters, general promotional material, postage, et cetera.

Q. But that's a yearly expense? A. That's a yearly expense, yes.

Q. And that's exclusive of other indirect expense of an overhead nature? A. Oh, yes, of course. That's purely out of pocket expense.

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DONALD I. KNOWLES—Direct

—1850—

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Q. Now, in that letter I notice there is a reference to conference circulars, and would you explain what those

Donald I. Knowles—TAPSC Secretary—Direct

are? A. Well, the new appointee or the new addition to the list will receive from the lines probably very shortly the sub-agency appointment agreement, but he will not have the most recent conference circulars that we issue in behalf of all lines.

In order that he may be up to date on the latest material, we enclose the current conference circulars.

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Q. Generally speaking, what purpose is served by circularization of information in this form? A. Well, it serves in my opinion a good purpose. No. 1, it's one circular covering material which each line would otherwise be obliged to send out themselves. In other words, the agent would receive 24 or 25 circulars worded differently with respect to these items. And doing this we can give the agent the material he needs, the information he requires, for one central file.

It helps I think the agent greatly in getting a standardized circular which of course the text of which has been approved by all lines.

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—1852—

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Q. Now, we have heard throughout the testimony here references to the role of the conference auditor, and I think a man named Stark has had his name taken in vain on many occasions. Where does the conference fit in with regard to auditing sub-agents? A. Well, in the appointment agreement, on the back page of Exhibit No. 113, in Item 19, it provides that the books of the sub-agency shall be open to inspection by a line auditor or a duly authorized representative of the conference.

Robert W. Hemphill—Travel Agent—Direct

—1853—

And the auditor serves actually two purposes. One is to inventory the ticket stock, to check on the agency records, and I think that Mr. Stark has been most helpful to many agents in assisting them in revising their auditing, their bookkeeping systems, which is beneficial not only to the lines but to the agent. That's really his only main function.

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ROBERT W. HEMPHILL—Direct

—1876—

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By Mr. Sisk:

Q. In your opinion, what is the amount of experience which is necessary for someone to become a qualified travel agent? A. A qualified travel agent? I would say from three to five years.

Q. And in your opinion, how long does it take for somebody to become qualified to handle steamship bookings on trans-Atlantic trade? A. I would say that in Los Angeles, there aren't very many people whom I would consider highly qualified to handle steamship business. I think it takes five years, at least, to make a good steamship man.

—1877—

The man who is in charge of our steamship department is a man in his 40's, and he loves ships, he likes to sell ships, he has been highly trained, and he has had between 20 and 25 years' experience as a steamship agent. I consider him one of the most qualified men in Los Angeles. I don't think there are more than a half a dozen of them.

Q. How does the amount of experience necessary to handle steamship bookings compare with the amount of experience necessary to do international air bookings?

Examiner Roth: I would remind you that you are getting into cumulative testimony in the light of the stipulation on the record.

Robert W. Hemphill—Travel Agent—Direct

Mr. Sisk: Well, I shall be as brief as possible. This is my last question on this subject.

The Witness: Would you repeat your question again, please?

Examiner Roth: Would you read it, Miss Craft?
(The pending question was read by the Reporter.)

The Witness: It takes more experience, to handle steamship bookings because you deal with different lines, with different types of accommodation, with varying rates, and that experience is difficult to acquire. You can sell an air ticket because the rates are all fixed, and there is no variation. You don't have to be familiar with all the different classifica-
—1878—

tions of accommodation on board the ship.

The ship passenger, the surface-minded customer, we have found, is more leisurely minded and is more deliberate. He will come to our office with his wife and spend hours sitting around a desk discussing these things with us. He frequently changes his mind. We get into discussions regarding the type of accommodation. He is not satisfied with his room. He wants it changed. It goes back and forth and takes a lot of trouble.

With the air booking, there is only first class or economy class. The passenger is only going to be in the air a matter of hours instead of a matter of days. The importance of these things, it is not so great to him. We get into more fruitless and unprofitable discussion when we handle people who are traveling by ship. It takes more time.

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Robert W. Hemphill—Travel Agent—Direct

—1879—

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Q. And in your business, have you found that your sales people and yourself are able to influence passengers who travel by one means of transportation rather than another?

Examiner Roth: I would like to repeat my statement. I don't think an answer to that is necessary.

Mr. Sisk: Well, I'd prefer to have an answer, Mr. Examiner. This is not going to take very long, and although it may be a bit cumulative, I would like to get an answer from Mr. Hemphill on this question and move on to something else.

Examiner Roth: How much cumulative testimony do you expect to put into this record, Mr. Sisk?

Mr. Sisk: Very little. Very little additional.

Examiner Roth: I will allow the answer to this one question; I will stop any answers which I consider cumulative from here on.

(The pending question was read by the reporter.)

The Witness: Yes, we do.

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—1883—

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Q. In any event, Mr. Hemphill, when you were told that it was not the custom to take minutes, did you do anything further about that subject? A. Yes, I again informed the chairman that as President of ASTA representing approximately 13 or 1400 travel agents, I would like to have minutes taken of the meeting so that we could prepare a progress report for ASTA; that I had traveled from the west coast expressly for this meeting, that Mr. Donovan, the past President, had traveled from Chicago, Mr. McGrath from Florida and Mr. Piscatella from headquarters.

The chairman, as I remember the statement, said this:

Robert W. Hemphill—Travel Agent—Cross

"We do not take minutes at these meetings, but we discuss among ourselves afterwards the events that took place."

—1884—

And again, I made the request, saying—I said to him, "Well, Gentlemen, is there something that you do not wish to have made public at these meetings?" And since I kept pressing him, I was finally given an answer by the Cunard representative, Mr. Jack Whitehead.

Q. What was that answer? A. As I recall it, and I think I remember it quite well, he said, "Well, if you must know, as long as you have Congressman Celler, the Sherman Anti-Trust Act and other governmental inquiry bodies, we do not intend to have minutes published or circulated."

ROBERT W. HEMPHILL—CROSS

—1899—

By Mr. Blackwell:

Q. Now, as to your conversation with Mr. McConnell of American Export Lines, where did that take place? A. I think I remember two occasions.

Q. Where? A. One at the home of the American Export Line agent in Los Angeles at a party, and I think another one at an ASTA convention at the conclusion of the steamship seminar.

Q. Where? A. It was either Madrid or Lausanne. I don't remember which it was.

Q. And Mr. McConnell was present there as well? A. Yes.

Q. Who is he? What is his capacity with American Export Lines? A. I believe— Again I'm not familiar with these technical titles. I believe he is— Whether he is U. S. sales manager or general manager or passenger traffic manager I'm not sure.

Robert W. Hemphill—Travel Agent—Redirect

—1944—

* * * * *

A. Something I would like to point out in this connection, I hope it is relevant. Many retail agents are reluctant to tell you what I have told you because they are afraid it might reflect upon their standing with the steamship carriers.

By Mr. Neaher:

Q. Did any of them ever indicate they had ever been told anything like that? A. No, but I know a lot of agents would be afraid to give testimony such as I would

—1945—

give because they are afraid that the steamship companies, they might antagonize the steamship companies. I think agents on the east coast, their steamship business is more important to them than it is to us on the west coast.

Q. If I were to tell you that I don't have an exact count, but I would say that at least 8 agent witnesses have testified here, called either by Public Counsel or by counsel for ASTA, would that change your opinion any? A. I am not familiar; I merely stated that as an opinion.

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ROBERT W. HEMPHILL—Redirect

—1948—

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By Mr. Sisk:

Q. Mr. Neaher asked you questions relating to your discussions with potential travelers as to the advantages of going by sea compared with the advantages of going by air. In your experience, Mr. Hemphill, and in the experience of your agency, have there been occasions when you have or your agency has been able to divert traffic from sea to air? A. Yes. I think retail agents are attracted by

—1949—

the fact that on one of our inclusive tours, they are going

Robert W. Hemphill—Travel Agent—Redirect

to get 10 per cent and have less problem—no problems at all. We do the work for them. I think that agents do convert people to tour operation. Since we operate air tours, I think they probably divert some business from the steamship lines.

Q. Now, with respect to your own employees who are on this profit sharing plan, when they are considering what is in the best interests of the potential traveler, they are considering that factor, and you indicated they are also considering another factor, your own profit. Is that correct?

A. That's right.

Q. And their determination of what is in the best interests of the traveler is a subjective one, is it not? A. Yes.

Q. It will vary from individual to individual. A. Yes.

Q. Now, this is also true of the retail agent, small retail agent, with whom you deal when he is confronted with a traveler who wants to go to Europe. He makes a subjective judgment as to what is in the best interests of that traveler. A. Right.

Q. Now, in your experience, having dealt with many
—1950—
retail agents, would a difference of three per cent in a payable commission be a factor which would enter into that subjective determination of those retail agents?

Mr. Neaher: I will object to that because I think all the testimony of this witness has been concerned with air tours in which he pays 10 per cent to the agent in question. So I can't see what difference it would make to the agent.

Mr. Sisk: You asked the question when went into this, Mr. Neaher.

Examiner Roth: I will sustain the objection.

Robert W. Hemphill—Travel Agent—Redirect

By Mr. Sisk:

Q. Now, you do have some retail business; I believe you indicated that in connection with the TAPC passage bookings in the years '59 to '60, you had about \$50,000. Is that correct? A. I think so.

Q. Now, in your opinion as the head of the Hemphill Travel Agency, the employer of these people who are working for you, would the fact that a higher commission might be obtained by diverting a passenger from sea to air where you can connect up with a tour be one of the factors that would enter into the subjective decisions of your own employees?

Mr. Neaher: I think that's purely hypothetical and speculative and would require Mr. Hemphill to
—1951—
get inside the minds of his employees.

Mr. Sisk: I would like to say, Mr. Neaher, that you asked Mr. Hemphill what are the factors which are considered when you talk to a customer.

Mr. Neaher: And he said he considered profit factors and he considered the customer's needs.

Mr. Sisk: You have opened the door to what goes on in Mr. Hemphill's agency in respect to these.

Mr. Neaher: But not in the minds of his employees.

Mr. Sisk: I think this question is proper.

Mr. Neaher: Subjective determinations which, by their nature, I would say, are not readily exposed.

Examiner Roth: The witness may answer.

The Witness: Would you repeat the question, please?

Donald I. Knowles—TAPSC Sec'y—Cross
William H. McConnell—AEL Vice Pres.—Direct

(The pending question was read by the Reporter.)

My answer would be, yes.

DONALD I. KNOWLES—Cross

—2012—

Q. Is that typical of the letters which the Conference would send out to the agents with respect to the booking on non-Conference carriers?

I might say with respect to this question, Mr. Examiner, Mr. Neaher and we have stipulated that these are representative letters.

Am I correct on that, Mr. Neaher?

Mr. Neaher: Right.

WILLIAM H. McCONNELL—Direct

—2159—

By Mr. Neaher:

Q. In general, what business came before the Atlantic Conference meetings that you attended? A. Before the Atlantic Conference, they are matters of broad policy, matters concerning level of rates, commission to agents, cooperation with IATA is a recent one.

—2161—

Q. I think the record may be clear on this, but let me just put it to you again. A delegation from ICCTA actually attended a meeting of principals? A. Of principals, that's correct.

Q. Were you present at that meeting? A. I was.

William H. McConnell—AEL Vice Pres.—Direct

Mr. Sisk: Could you give us the document reference that you just indicated you had, Mr. Neaher?

Mr. Neaher: It is page 328, et cetera, of Exhibit 50. The letter is A. C. 267-53, August 5, 1953.

Let me show you that document, Mr. McConnell, and ask you if it refreshes your recollection as to the date when the ICCTA group actually attended a principals meeting.

The Witness: It is. This is the meeting to which I refer.

By Mr. Neaher:

Q. I didn't hear that. A. This is the meeting to which I refer.

Q. And that's in 1953? A. 1953.

Q. And was it subsequent to that time that other meetings were arranged between a delegation, a small delegation, from ICCTA, or committee as I think you call it, and a committee representing the Atlantic Conference? A. The Atlantic Lines.

Mr. Sisk: Excuse me, Mr. Neaher. If you could
—2163—

give us a reference to the minutes which relate to the meeting you are inquiring about, perhaps we could follow this line of testimony as you go forward.

Mr. Neaher: Well, the only reference that we have at the moment is the fact that according to this page 328, I think it was, of Exhibit 50, a meeting of principals with ICCTA—or, put it the other way around, a meeting of ICCTA with the principals occurred in Paris on October 1, 1953.

I think Mr. McConnell has testified he was present at that meeting.

William H. McConnell—AEL Vice Pres.—Direct

The Witness: That's right.

Mr. Neaher: And that group was there just—

Mr. Sisk: Just so that the record is clear, the document you have referred to just makes reference to a suggestion there be such a meeting, and the answer indicates there was a meeting held with the committee, or a counter-suggestion made that there be a meeting held with the committee. We haven't seen any minutes of such meeting, and we are hopeful if you have them, we could look at them to follow this testimony as we go forward.

Mr. Neaher: I thought I might have had a copy of the full minutes of the October, 1953, meeting, but I just have an excerpt which was one of the documents copied by you at the time of the inspection, and that just relates to minute 191.

—2164—

However, your recollection is quite clear on that, isn't it, Mr. McConnell—

The Witness: Yes, it is.

By Mr. Neaher:

Q. —that you were there? A. It is, indeed.

Q. And at that meeting, did the ICCTA delegation present its case insofar as increase in agent's commission was concerned? A. It did.

Q. And was their position and their argument considered by the principals at that meeting? A. It was.

Q. And later on in succeeding years, when the two committees representing the Conference and ICCTA got together, did the committee later report back to the principals as to what had gone on at those meetings? A. I believe so. I haven't recollection of the reports, but I believe so.

William H. McConnell—AEL Vice Pres.—Direct

Q. Well— A. Yes, I am sure they would do that.

Q. Was there discussion at Principals meetings regarding the further presentations— A. Yes.

—2165—

Q. —and regarding the agent's commission question?
A. There was.

Q. Now, were you present at a meeting of principals sometime in 1956 at which there was action taken with regard to a change in the commission rate? A. I was.

Q. And do you remember what that was, what that change was? A. The commission had been 6 per cent in the summer season and 7½ per cent off season.

Q. And what was— A. And after a lengthy discussion in Conference, it was set thence for 7 per cent year round.

Q. Year round, which meant the high season— A. High season was raised by 1 per cent.

Q. From 6 to 7.

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—2168—

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Q. Again, in connection with your attendance at principals meetings of the Atlantic Conference or subcommittee meetings, has it ever come to your attention that any so-called willful minority of member lines blocked further action with respect to the commissions to be paid to sub-agents? A. I have never seen any sign of a willful minority, frankly.

Q. Would you explain in a general way how the member lines conduct themselves at these meetings with respect to problems before them such as agent's commissions? A. Yes. For example, an expression would be given by each of the lines regarding its views on the subject. And as to whether there is a minority or a majority of one side is, frankly, never a particular concern.

William H. McConnell—AEL Vice Pres.—Direct

Q. Are any so-called— A. It can be seen in a round-table discussion whether there is likely to be any meaning
—2169—

toward unanimity, and there is an effort, of course, also, for me to try to sell you my views on this matter. And very frequently, views have been changed in such meetings.

Q. And as a result of discussion? A. As a result of protracted discussion, but as to minorities and majorities, these matters are not necessarily voted on at all as one considers a vote.

Q. No ballots are cast? A. No. The point is very well—very clear after a long discussion, and it requires no voting per se.

Q. Now, after these principals and subcommittee meetings, minutes are prepared, are they not? A. They are.

Q. And you have seen these minutes when they have been issued? A. I have.

Q. In fact, under the procedure in effect, each line is required to confirm the minutes— A. That's right.

Q. —that are issued, is that right? A. Each line is required to confirm the subcommittee minutes.

Q. The subcommittee minutes? A. But the principals minutes are agreed at the time.

—2170—

Q. Is that evidenced by any physical act, their agreement? Do they sign— A. When those minutes are prepared, they are signed by the principals.

Q. Right then and there at the meeting? A. At the meeting.

Q. Have you ever seen an occasion when the minutes prepared of one of these principals meetings did not truly and accurately reflect the action taken at the meeting? A. No, they have reflected the action taken at the meeting, to the best of my knowledge.

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William H. McConnell—AEL Vice Pres.—Cross

WILLIAM H. McCONNELL—Cross

—2185—

By Mr. Blackwell:

Q. Now, did I understand your testimony correctly that as a result of the last change in commission—that is, raising the commission level generally to 7 per cent for the entire year—approximately a million dollars more commissions would be payable to the travel agents? A. I would say that's reasonable estimate.

—2186—

Q. Why did the Atlantic Conference approve that raise in commissions if it was going to cost them a million dollars?

Or, more properly, why did American Export Lines vote on the proposal to raise the commission? A. On that question, Mr. Blackwell, I'll have to give you a very general answer. The American Export Lines would like to be able to make its agents happy. We felt that economically we were able to do so on that occasion and so voted, therefore supported the increase in commissions.

Q. Well, you're not primarily in the steamship business to make agents happy, are you, Mr. McConnell? A. That's one of our purposes, yes.

Q. To make people happy? A. Make agents happy.

Q. You mean make them sell transportation for you? A. We hope that that will come about as a result, yes.

Q. Now, what were the economic justifications back in 1957 which prompted American Export Lines' decision to raise commissions? A. Because our business was on the increase and because we felt able to pay it and because we wished to pay it if we were able.

—2191—

Q. Now, did you cast the vote on the last action which led to the raise in commissions in 1956? A. I did, yes.

William H. McConnell—AEL Vice Pres.—Cross

Q. Now, your earlier testimony that American Export Lines was interested in making agents happy was— You were really interested in seeing that the agents to some extent were given a higher remuneration for their services? A. That's right.

—2192—

Q. But it's not the policy of American Export Line or any other company to give anything for nothing, is it, Mr. McConnell? A. For nothing?

Q. What did you expect the agents to do for you as a result of that raise in commissions? A. We expected and hoped that that would help and improve our position with the agents and we were able to afford it.

Q. You mean the cordiality in your acquaintanceships or do you mean that they would increase their bookings for you? A. Increase their sales. Increase their sales.

Q. Was that borne out by your experience since then with the agents? A. I'll answer yes to that question.

Q. Now, if you will look at the figures before you, you'll see that they have run along from 1955 to 1959 generally in about the same pattern, going up or down or varying very slightly. But in 1960 there is a rather precipitous rise from 32,000 in 1959 to roughly 42,000 in 1960. A. That's right.

Q. What caused that rise in traffic? Was that a result of anything that happened to the Italian Line ships, or was that a result of general business conditions? A. No,

—2193—

it was a result of two factors. One, we increased the carrying capacity of the INDEPENDENCE and CONSTITUTION by 112 berths each, added considerable capacity.

No. 2, we acquired the ATLANTIC in that year, and those two factors account for the rise.

William H. McConnell—AEL Vice Pres.—Cross

Q. When was the ATLANTIC acquired? Well, not when was she acquired. When did she commence her sailings? A. May 1960.

Q. So you have got roughly six months of the ATLANTIC's carryings in there? A. Seven months. Yes.

Q. Now, you stated that—

Examiner Roth: How many voyages did the ATLANTIC make in 1960 for American Export?

The Witness: She made five voyages.

Examiner Roth: What's her capacity overall?

The Witness: Her capacity is 860. This, of course, is east and west you know.

Examiner Roth: Yes, I know.

By Mr. Blackwell:

Q. Now, you have indicated that at least one of the factors that American Export Line considers in voting on commission levels is the relationship with the agent, and the other is American Export Line's ability—or economic conditions. I presume you meant ability to pay. A. That's

—2194—

right.

Q. Considering— A. That's right.

Q. —your operating factors? A. (Nodding affirmatively.)

Q. Are there any other economic considerations that go into the Export decisions relative to commissions? A. I would say generally that that describes it. Economic situations amply describes it, except that it is a fact of business life, Mr. Blackwell, that you like to pay your employees as much as you can within reason, because it binds them to you much more closely. Your ability to pay has a good deal to do with both of these situations.

William H. McConnell—AEL Vice Pres.—Cross

Q. And I think it logically follows from your answer that the amount of commissions the agent receives is in some way proportionate to the effort he makes on your behalf? Is that correct? A. Not necessarily. It would seem to me that the agent has a duty to the public, to the traveling public, to book the passenger by the means which he prefers, and I can't believe that an agent would deliberately steer a passenger who wanted to travel by ship over to an airline.

Q. Now, when you voted to raise the commission level, was your basic objective to put more money in the agent's pocket or to increase the business of American Export Lines? A. Both.

—2195—

Q. Now, in 1960 American Export Line had considerably more carryings than in the year 1956 when they voted to raise commissions. Is American Export Lines today in a better position economically to sustain the burden of increasing agents' commission? A. It is not better off economically. In fact, somewhat worse. Because the operating expenses of the vessels have increased measurably since 1956, and that accounts for the fact that the net—the overall net result—is a good deal less in 1960 than in 1956.

Q. There has been from time to time a rise in the price of accommodations on the ships? Has there been? A. Very slight. Very slight.

Q. And to a limited extent the agent gets the benefit of that because— A. Of course he does.

Q. —commission is based on the— A. That's right.

Q. Now, do you look upon the steamship business as being unique in regard to the rising cost and price squeeze problem that generally—that appears at least to generally confront businessmen everywhere today? A. It's unique.

William H. McConnell—AEL Vice Pres.—Cross

in one respect, Mr. Blackwell, if I may say. It's unique in that obviously rising expenses of operation of ships and
—2196—

their cargo and terminal expenses would call fundamentally for an increase in rates, but we are confronted with a competitor who is committed to a solid policy of reducing fares.

Q. In a period of inflation such as we have gone through in the last ten years, has it not been the practice of American steamship lines to attempt to keep their operating costs down by, for instance, shortening turnaround of ships?

A. That's right. That's one of the devices.

Q. Have you done that? A. We have.

Q. Do you know whether the travel agent has the ability to decrease his costs in that fashion or in any other fashion?

A. I'm not enough familiar with the problems of the travel agent, although I am sure he does have those economic difficulties.

Q. Now, when American Export Lines acquired the ATLANTIC, were they then cognizant of the economic—the present economic conditions and the immediate past economic conditions which you have referred to? A. Economic conditions at the time of the purchase looked bright enough for us to agree to the purchase of that vessel, believing that it had excellent economic possibilities.

—2197—

Q. So that— A. And in that connection the period was September-October 1959. And in that time you may recall— Since that time the airlines have introduced the— The jet came into being in a complete service in 1960, and the excursion fare became operable not until 1960.

Q. This is an incidental question. Generally speaking, the airlines have been subjected to increasing costs as well, have they not, in wages and fuel and cost of materials and

William H. McConnell—AEL Vice Pres.—Cross

purchase of their equipment? A. No, not quite to the same degree, for the simple reason that the jet, as you may know— One jet costing \$6 million can carry trans-Atlantic traffic equal to the capacity of the UNITED STATES in one year.

Q. Well, there may be operating factors which offset—

A. Their operating costs are coming down, in effect,—

Q. Pardon? A. —with the jets.

Q. Pardon? A. Their operating costs are coming down. As you know, many, many hundreds of pilots are out of work.

Q. Because of increased capacity? A. Increased capacity.

Q. The unit cost has come down because of increased capacity? A. That's right. Which has not been possible in the steamship industry. —2198—

Q. And if the steamship business could generate a sufficient amount of passengers or a substantial increase in passengers, their unit costs of operation would come down too, would they not? A. That's correct.

Q. Now, speaking of the economic feasibility of American Export Lines alone, and just speaking of the economic facility or ability, I take it from your answers that American Export Lines would have been in a better position to raise commissions to travel agents in early 1960 than they are now? Is that correct? A. Would have been in a better position?

Q. Yes, than at the present time? A. Yes, possibly.

Q. In early 1960 was there pending on the agenda of the Atlantic Conference proposals to increase commissions? A. Specifically I can't recall, but that matter is always in our minds.

William H. McConnell—AEL Vice Pres.—Cross

Q. During that period do you know whether there was ever a vote cast by American Export Lines on increasing commissions? That is, in the first five months of 1960?

A. I don't recall, frankly.

Q. Do you know whether there were discussions held by
—2199—

the representatives of the Atlantic Conference relative to increasing commissions?

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—2207—

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By Mr. Sisk:

Q. Well, would you look now at this document which was furnished to us by Mr. Knowles from the archives of the TAPC and which appears to be the agreement approved on May 8, 1929? A. Frankly, I'm very—I have no previous knowledge of this, and I'm rather amazed at paragraph A.

Q. What does that paragraph say? A. Each member line shall determine and fix its own rates of passage and the rates of commission allowed to general passenger agents and sub-agents. That's the gist of it.

Q. That amazes you? A. Yes.

Q. You didn't know that that was in the TAPC agreement in 1929? A. Regrettably I must express my ignorance in that regard. The more so should I add because all lines did maintain the same rate of commission in those days.

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—2209—

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Q. Well, when you prepared your response to the interrogatories did you make any check of your company records to see what position your company may have

William H. McConnell—AEL Vice Pres.—Cross

taken in the year 1950? A. You may be sure that American Export agreed to the increase in commissions.

Q. Well, now, I call your attention, Mr. McConnell, to the paragraph on page numbered 5 of this particular exhibit which would be also numbered with Public Counsel's number 290 up at the top of the page, where it states that all lines expressed a willingness in principle to agree to an increase in agency commission, and then goes on to say that the majority favored or were prepared to increase the commission to seven and a half per cent, all classes, all seasons. Now,— A. I recall that.

—2210—

Q. —did American Export vote with the majority there?
A. In this particular case, yes.

Q. How do you know? A. I recall this expressly because of the fact that we were anticipating the commission would be set at seven and a half per cent.

Q. All over? Across the board? A. That's right.

Q. And the minority blocked that? A. Whether a minority or a majority, obviously there was substantial resistance to it. I wasn't present, you understand, but in the normal process of conference, negotiation would bring about a compromise, which obviously occurred here.

Q. Has that always been the case? A. Beg your pardon?

Q. Has negotiation always brought about a compromise?

A. Negotiation frequently brings about a compromise.

Q. But not always? A. Not always.

Q. Indeed,— A. It brings—

Q. —if— A. A draw is a compromise too, is it not, Mr. Sisk?

—2211—

Q. Pardon? A. A draw is a compromise too.

Q. Now, Mr. McConnell, you say that obviously there was substantial opposition. What is the word "obviously".

William H. McConnell—AEL Vice Pres.—Cross.

based upon? A. On my knowledge of how the—of the workings of the conference. That's all.

Q. Now, one member line in opposing a proposal can block it, can it not? A. Theoretically, yes. I have attended some 25 conference meetings, Mr. Sisk. I have never known an occasion when one line or even two lines could hold up the works.

Q. How about three? A. Beg your pardon?

Q. How about three? A. How about three? Well, frankly, when it's the three American lines we have held up some legislation on occasion. Let me admit it. It's a great safety valve, you know, for the American lines. We're outnumbered in a big way. But we have our strength through that device.

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—2212—

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A. Mr. Sisk, you know, the unanimity rule is in itself a great safety valve. I can't imagine one better. Because, you know, it certainly doesn't permit precipitate action, shall we say. That's one of the advantages.

Q. Well, that's clear. But is there any other safety valve besides the unanimity rule? A. I think you'd have to—

—2213—

I'd have to have a hypothetical situation. Let's— One safety valve would seem to be sufficient.

Q. Well, if the conference decided to pay a higher commission to agents and American Export Lines chose to continue paying the 6 per cent, that would be American Export Lines' safety valve in that regard, wouldn't it? It wouldn't have to pay the higher commission, would it? A. I can't imagine the American Export Line not agreeing to go along with the rest of the members in a case like that.

Q. That wasn't my question. A. Will you state your question again, please?

William H. McConnell—AEL Vice Pres.—Cross

Mr. Sisk: Will you read it, Mr. Reporter?

(Question read by reporter.)

The Witness: No, it wouldn't.

Q. Now, Mr. McConnell, looking further down in your response to the interrogatories, you skipped from the year 1950 over to the year 1956 in which you say you then agreed to the increase that was effected shortly thereafter. What happened between the year 1950 and the year 1956 as best as you can recall? A. What I outlined in the first paragraph is about what continued. That was, shall we say, a continuous question, because it's the principal appeal for

—2214—

revision made by travel agents with whom we're in very close contact.

Q. Now, between the years 1950 and 1956 did American Export Lines take any position with respect to the subject of increased commissions? A. I can't recall any specific proposal or any specific refusal.

Q. Now, in preparing— A. But obviously the question was under discussion for the next six years between 1950 and 1956, which finally led to this increase.

Q. Now, in preparing your answer, Mr. McConnell, and with particular regard to the two sentences there that I have called your attention to, did you go back and check your records between the years 1950 and 1956 to see whether you could determine what position American Export Lines had taken? A. No, it was not necessary for me to do that, Mr. Sisk, because the situation in regard to our financial position is pretty well known to me at all times.

Q. Well,— A. I mean to say there was no need for me to take a specific position.

William H. McConnell—AEL Vice Pres.—Cross

Q. Mr. McConnell, I'd like to direct your attention right now to page 2 of Exhibit 96, where it sets forth what it was that you were supposed to be answering when you answered

—2215—

your interrogatories. Would you read that to yourself, please? A. On page 2? This refers to various discussions running from 1951 to 1960.

Q. Yes, and it asks you to state the position which you took, which your company took, on each question concerning the fixing of the rates of commissions during those years.

Now, did you attempt to do that in making your response?

A. Well, my response doesn't specifically in so many words state it, Mr. Sisk. I feel that my response covers the approximate situation.

Q. Well, we're not concerned with approximates here, Mr. McConnell. We're trying to find out exactly what the facts were. And what I'm asking now is whether you went back into your records to try to determine exactly what position American Export Lines took with respect to these questions during the years 1950 through 1956. A. I can say that from the conduct of our affairs and the question of commission in the conference that we would always be willing to look at it and review it, and this question is constantly before us. I don't have to go look back in files on a subject on which I'm very, very, very familiar.

—2222—

Q. And what was the position of the American Export Lines at that October, 1951, meeting with respect to a 7½ per cent commission all year, all classes? A. I am sure we were in favor of it.

William H. McConnell—AEL Vice Pres.—Cross

Q. And do you recall what lines or line represented the minority opposition to the proposal? A. I don't, Mr. Sisk, no.

Q. Can you give us any idea of how many there were who
—2223—
were against it? A. I am afraid I can't. And you know, very frequently, in a discussion like this, there are wavering views.

Q. You will note, Mr. McConnell— A. You know that argument frequently wins another line over to your side, which is the object of the game.

Q. You will note, Mr. McConnell, that the reference in these minutes of October, 1951, is a reference to a strong majority in favor of the 7½ per cent overall commission. Does that help refresh your recollection as to what the situation was in those years? A. Strong in Conference parlance is the same—has the same meaning as "clear." That could be if we had 25 members at that time, that could be 14 or 15.

Q. Or it could be a lot more. A. It could be.

Q. You don't— A. I doubt it very much that it was a lot more because if it was that strong, some kind of compromise might well have been reached.

Q. But you don't remember, do you? A. I don't recall specifically, no.

Q. And the minutes don't show it. A. Yes, the minutes show everything that we required to know.

Q. They don't show who voted for what and who voted
—2224—
against it, do they? A. Well, we would find out on the next meeting. There may be some changing views between here and the next meeting.

Q. Did you find out? A. From our point of view, that would hardly be important.

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Q. And did you find out at the next meeting? A. I don't recall. If you will show me the minutes of the next meeting, I might refresh myself on it. March, 1952.

Q. I'd be happy to show you those minutes. A. Mind you, we had just made a change in commissions in 1950.

Q. Would you look at Exhibit 59, the minutes of March 6, 1952, meeting of the Atlantic Conference? A. Deferred at that meeting until the next; and at the next meeting, deferred.

Q. So the minutes of the next meeting don't help very much to tell you who voted for what and how. A. No, but they indicate what we have to know, and that is that it was impossible to reach an agreement.

Q. Impossible to get unanimity. A. Well, yes, that's one way to put it.

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—2229—

Q. Now, here, we have a situation where if your President or your Managing Director wanted to find out what American Export Lines' position was in the year 1952, he'd be unable to do so, isn't that correct? A. I can't ask you a question. My President never asked a question like that.

Q. That wasn't my question to you, Mr. McConnell. A. And if he wished to know, I could tell him out of my memory. That would be sufficient for him.

Q. Would you tell us? A. He'd have to ask me very soon after the meeting because we go through a volume of paper.

Q. But if your President today wanted to know what the position was that was taken by your Company at that meeting of the Atlantic Conference, he would have no way of finding out, would he? A. He couldn't find out no way at all.

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William H. McConnell—AEL Vice Pres.—Cross

—2233—

Q. Mr. McConnell, we have looked at all of the minutes which were made available to us with respect to the Atlantic Conference meetings relating to travel agents, commissions payable to travel agents and similar subjects. And we have never seen a minute reflecting the presence of the ICCTA group. Can you explain why that would be the case? A. Yes, because the ICCTA group invited themselves or requested a meeting with us. We could easily have had it at luncheon or something else. The most convenient thing was to invite them into the room. But if no action was taken then there would be no need to put it in the minutes, and this is not an unusual thing in the Conference. We have had other groups before us. An organization called ICEM, Intergovernmental Committee for European Migration, with whom we have endeavored to cooperate over the years. They have also visited us, and it doesn't appear in the minutes.

Another organization that has visited us in Principals

—2234—

meetings is ETC, the European Travel Commission. That is the Travel Commissions official government missions of all governments, and these are visits in connection with their interest in discussing matters with the Principal, but as far as action taken at the moment is concerned, if any action relating to these visitors took place, it would be so expressed in the minutes.

Q. But there would be things going on, discussions, meetings, which would not be reflected in the minutes, is that correct? A. Yes, because—may I elucidate because our minutes are an expression of what is accomplished in the meeting. If nothing is accomplished, it is hardly need for a minute.

William H. McConnell—AEL Vice Pres.—Cross

Q. That may or may not be the case, Mr. McConnell, but in any event, that is the practice. A. For our purpose, that is the case, and that's quite suitable.

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—2250—

Q. Mr. McConnell, I meant to ask you this question before: With respect to the subcommittee of the Atlantic Conference, what is the manner in which that subcommittee is chosen? Can any line become a member of the subcommittee? A. Every line is a member of the subcommittee.

Q. But not every line attends the subcommittee meetings?

—2251—

A. Oh, if not they're represented by someone else. For example, in the subcommittee you will find the American President Line is frequently represented by American Export. They may— Here's a company, for instance, that hasn't got a substantial interest in the basic decisions, and if we represented them we would— If a question came up that obviously would be of burning interest to them, we would discuss it further by cable or otherwise before making a decision or placing a position forward.

Q. Mr. McConnell, do you remember attending the meeting which was held in Paris in 1956 at which the vote or decision was taken to increase commissions? A. As I recall, it wasn't settled at that meeting though. It seems to me that this was a more protracted negotiation than was accomplished in the March 1 meeting. I'd like to refresh myself on that point.

Because if you recall, earlier the notice was dated— This meeting is March 1. The notice was dated in May. Out of New York. We must have had a second meeting at which that was decided.

William H. McConnell—AEL Vice Pres.—Cross

Q. Well, without too much reliance upon documents for the moment, Mr. McConnell, can you tell us as best as you can recall what went on at the March meeting with respect to the question of increasing commissions? A. I'll have to stretch my memory a bit here. My belief is that there
—2252—

seemed to be general agreement in making a move toward an improved commission arrangement for the agents.

And I believe the principals—since nothing could be ironed out at that meeting—that the principals directed the subcommittee to intensely review that question at another meeting.

Q. Well, did you attend that March meeting, Mr. McConnell? A. Yes, I did.

Q. And did you also attend the subcommittee meeting just before the March meeting? A. I did.

Q. Well, tell us why your name doesn't appear on page—I'm sorry. Do you have before you Exhibit 50, pages 349 to 352? A. Well, now, Mr. Sisk, this does ring a bell here with me. In 1956, early February, I started out on a long cruise of 60 days, and I flew back from Cairo to Paris to attend the principals' meeting, although I did not go through the subcommittee. It stands out in my mind because I have never been away from the shop for 60 days before or since. And that was from January to April of—from February to April of 1956.

Q. Well, at that subcommittee— A. I did attend this
—2253—

meeting. And I see that Mr. Muller, my European deputy, attended the subcommittee meeting.

Q. Yes, Mr. Muller and Mr. Terzolo were there on your behalf.

Now, did Mr. Muller report to you what had happened at the subcommittee meeting? A. He did indeed.

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Q. And what position did American Export Lines take at the March 1, 1956 meeting with respect to the subject of an increase in commissions? A. We were in favor of increasing the commission at that time.

Q. And you voted that way? A. That's right. I'd like to refresh my memory about 1956. Do the minutes of the principals' meeting show my attendance? I'm quite positive about this one. But I'd like to check those minutes.

Q. I'm sorry; I don't have the minutes of that meeting. All I have is what has been put in to evidence as Exhibit 66, a March 5, 1956 cable to Secretary Mayper. A. I'm 90 per cent positive I was there.

Q. Yes. Now, will you tell us, Mr. McConnell, why no minute was kept of Item 8? A. Well, yes. The answer is nothing was accomplished at that meeting.

—2254—

Q. Well, you voted in favor of an increase in rates at that meeting. A. That's right. That's right.

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Q. You said you voted in favor of it, Mr. McConnell. A. I was in favor of it, if that's what you call a vote. It's obvious here that no actual balloting was done.

—2255—

I think I made clear my position that when we go around over these subjects and there is a mass of talk to get the views of each of the lines, that the situation, the result that comes up is readily visible.

Q. But not visible from— A. If there's a good deal of opposition, is there any point in slugging-it-out-all-night sort of thing?

Q. Well, is it your position, Mr. McConnell, that at that March 1, 1956 meeting there was a good deal of opposition

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to the proposal to increase the commissions? A. I would say yes.

Q. Look now at the subcommittee minutes of March 5, 1956 which you have before you as part of Exhibit 50. A. Exhibit 50?

Q. Pages 349 to 352. A. I have it, yes.

Q. Now, Item 8 reflects the fact that there was "a considerable majority" of the lines in favor of the proposal to increase commissions. Now, does that refresh your recollection about what the situation was at that March 1, 1956 meeting? A. Yes, I would say we were getting very close.

Q. Maybe just a few hold-outs at that point? A. May have been five or six. That's getting close.

Q. All right, Mr. McConnell. Now, what happened next

—2256—

with respect to this subject of ~~an increase in commission?~~ Was it taken up at the meeting which was held in May of 1956 at the Atlantic Conference meeting at the Savoy Hotel in London? A. It was.

Q. And what happened with respect to it? A. It was at that meeting that the commission was raised to 7 per cent year-around.

Q. In other words, a unanimous vote was achieved? A. That's right.

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—2265—

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Q. Well, now, between the years 1956 and 1960 did American Export Lines take any position with respect to the payment of a higher commission to agents either in the Atlantic Conference or in the Trans-Atlantic Passenger Conference? A. Not that I recall.

Q. Do you remember attending a meeting of the Atlantic Conference which was held in Monte Carlo on October 9, 1958? A. I believe I was there.

William H. McGonnell—AEL Vice Pres.—Cross

Q. Now, do you remember whether the subject of the higher commissions to agents came up at that meeting? A. I don't recall offhand.

Q. Do you have your minutes of that meeting here? A. October? Nineteen fifty—?

Q. 1958. A. Yes. There's no reference in it.

Q. No reference to anything being done with respect to the question of higher commissions? A. That's right.

—2266—

Q. Would you look now at Exhibit 23, a letter from Mr. Roper to Mr. Mayper dated October 15, 1958? A. Yes, sir.

Q. That reflects agreed-upon action by the member lines of the Atlantic Conference, does it not? A. Requesting TAPC to study.

Q. Yes. Now, the agreement— A. And to report.

Q. The agreement reached by the Atlantic Conference lines to make that request to TAPC was one which was reached at Monte Carlo? A. That's right.

Q. The meeting you attended? A. That's right.

Q. But it isn't reflected in the minutes, is it? A. No. It doesn't, after all, reflect any change in rules being made or—

Q. Well,— A. —any basic—

Q. As I say, I don't want to argue the implications of the document with you.

Now, what position did the American Export Lines take with respect to the question discussed in Exhibit 23? A. I don't see, Mr. Sisk, there's any question there. I mean—

—2267—

Q. Well, the matter which was— A. We're interested in studying the commission scale obviously of any other conference which is in a competitive service.

Q. Can you tell us how this subject arose at that Monte Carlo meeting? A. I would say it came about informally

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around the table, was not a— It wasn't an item on the agenda. And the question was asked in the course of the meeting by one of the principals and which led up to this letter.

Q. Was anything said about the unanimity rule at the Monte Carlo meeting with respect to higher commissions?

A. No, that wouldn't be— This is a request for a study.

Q. Yes. A. To be made.

Q. Now, what I'm getting at is whether in the discussions which led up to the instructions to Secretary Roper to make that request of Secretary Mayper was anything said about the unanimity rule and commissions? A. No, not to my knowledge.

Q. I'd like to show you now a document from the Atlantic Conference files which has been marked as part of Exhibit 50, page 355, which reports a cable from R. W. Hemphill,
—2268—

who was then I believe president of ASTA. Did you see that on or about September of 1958? A. I'm sure I did. I recall his cabling.

Q. Was there any discussion at the Atlantic Conference meeting at Monte Carlo one month later of the Hemphill cable? A. I don't recall it being discussed, Mr. Sisk, but— Was there an answer? Does the file show that it was answered?

Q. There was an answer. There was an answer, Mr. McConnell, and it has been marked in evidence. I at the moment can't tell you exactly what number it is, but it was dated October 15, 1958. A. Well, this is an absolute sincere view of all of the lines, frankly. We would be pleased to increase commissions if we could.

Mr. Neaher: What exhibit number was that, Mr. Sisk?

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Mr. Sisk: I'm afraid that I wasn't able to cite an exhibit number. It went in with Mr. Hemphill's—

The Witness: The reply is an expression of the views of the lines, which still obtains today.

By Mr. Sisk:

Q. Now, does that help to refresh your recollection, Mr. McConnell, about whether there was any discussion at that Atlantic Conference meeting in Monte Carlo on the subject

—2269—

of Mr. Hemphill's cable? A. There obviously was, of course.

Q. And the answer that the lines will study the question reflected an accurate picture of what was decided at that meeting? A. Yes.

Q. Now, is it fair to say that—

Examiner Roth: Would that be Exhibit 120 that you were talking about?

Mr. Sisk: Yes indeed.

By Mr. Sisk:

Q. Is it fair to say, Mr. McConnell, that the letter which went out over Secretary Roper's signature which has been received in evidence as Exhibit 23, stemmed from the discussion which— A. That's right.

Q. —followed the discussion of Mr. Hemphill's cable? A. (Nodding affirmatively.)

Q. Now, having refreshed your recollection by looking at the cable, looking at the answer, and also Mr. Roper's letter, can you tell us whether there ~~was~~ any expression of views at that meeting, at that Monte Carlo meeting, as to the desirability of increasing commissions? A. Mr. Sisk,

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in every meeting in which commissions are discussed the
—2270—

desirability of doing it is ever present. I think that that is a situation you can accept as being correct and normal. But the economic possibility of accomplishing it is, of course, a very important point.

* * * * *

Q. Well, what was said? A. Just as I have mentioned, Mr. Sisk, that of course it is a very desirable thing to increase commissions if it's economically feasible to do so.

Q. Now,— A. But the unanimous view of the lines considering the circumstances of the rising expenses as outlined was that it was impossible of accomplishment at that time but that the matter would continue to receive their study.

Q. Well, was it unanimously decided that it was impossible or was it unanimously decided to form a special committee in the TAPC to investigate the possibility of it?

A. No, that was— That wasn't— This was a unanimous
—2271—

decision to send that letter, as everything is.

Q. Well, I'm sorry, Mr. McConnell. You've lost me here. There was an answer to Mr. Hemphill. Was that what you referred to? A. That was unanimously agreed among the principals.

Q. Yes. There was also— A. To send such a communication.

Q. Now, there was also a letter from Mr. Roper to Mr. Mayper which you have before you, Exhibit 23. A. Right.

Q. Now, that was also a unanimous decision of the lines to have the TAPC start to study the question? A. That's right.

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Q. Well, would it be fair to say, Mr. McConnell, judging from those two documents side by side, the answer to Mr. Hemphill and the Exhibit 23, that there were certain lines at that Monte Carlo meeting which didn't think that it was so impossible as you have indicated? A. I don't understand you—the implication there.

Q. I think you indicated that it was unanimously decided that at that time commissions couldn't be raised because of economic factors. A. That's right.

Q. Nevertheless, a special assignment was given to the TAPC to investigate the possibility of increasing the com-
—2272—

missions. And what I'm asking you is whether it was not the case that some of the lines who were at Monte Carlo were in favor at that time of doing something about an increased commission, and following the discussion of this matter the committee, the special TAPC committee, was set up? A. I don't see any special relationship except that they are interested in following the commissions paid by a competing conference and see what they are doing in the matter of commissions.

Q. Well, didn't you know that? A. No, they have very—I have a very good idea what their commissions are but they have a very complex set of commissions, as you may know.

Q. Well, generally speaking, Mr. McConnell, didn't you know when you were at Monte Carlo in 1958 that the airlines, international airlines, paid a ten per cent commission on inclusive tour traffic? A. Yes. I didn't know what that policy was in connection with free conductor's tickets, however, and other details.

Q. Just so the record will be clear, Mr. McConnell, do I understand then from what you've testified here about

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that Monte Carlo meeting that all of the lines who were there present indicated that it was economically impossible
—2273—

to do anything about commissions at that time? A. That's right.

Q. Now, it would also be true, Mr. McConnell, that if one line or two lines found it economically impossible to do something about commissions that nothing could be done? A. If one or two lines found? If only one or two lines you mean?

Q. Yes. A. But the fact of the matter is this was a unanimously-agreed message.

Q. Now, is there any place in the minutes which would show that, Mr. McConnell? A. No, there is not, quite apparently.

Q. So the only way that we can find out about that is to look to your recollection of what went on at Monte Carlo or somebody else's recollection who was there? A. The mere fact that that letter was sent indicates that unanimity was arrived at to send that message.

Q. What happened after the Monte Carlo meeting with respect to this question of higher commission? A. This has been studied by the lines each year, as my statement says. It's always in our minds.

Q. Did there come a time, Mr. McConnell, when some kind of agreement was reached within the Atlantic Con-

ference about what to do? A. About what to do?
—2274—

Q. Yes. A. In what connection?

Q. With respect to this question of promotion of sales, the higher commission, and similar related matters. A. Out of this study there were some questions raised about what might be done in the way of higher commission for inclusive tours.

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Q. Well, my question now relates to whether there was any agreement or understanding reached within the Atlantic Conference, not within the TAPC. A. You mean subsequent to 1958?

Q. Yes. A. There was further consideration of this—of two questions. One on the matter of commission to tour agents on promotion of tours. And the second item— I may be able to recall. There was a second item as well that was under consideration. If you— It must be in some of your documents here.

Q. Well, look now at Exhibit 50, page 367. This is a one-page confidential memorandum to principals which up at the top of the page has the number 13. On the right-hand side of the page it says "Sheet No. 22." Can you tell us first of all, Mr. McConnell, what is this document ex-

—2275—

tracted from? A. I would say that this is probably an AC bulletin.

Q. Would this be out of the subcommittee files, perhaps, of the Atlantic Conference?

Examiner Roth: If you don't know, I think you might just as well say so.

The Witness: This is obviously a—it is dated in London, not in Folkestone, and it was written on a day when the subcommittee was meeting in London and, therefore, is out of the memorandum from the subcommittee to the Principals.

Q. Were you there at that subcommittee meeting? A. Yes, I was.

Q. And had you also participated in the study which had been done by the TAPC following the Monte Carlo meeting in 1958? A. That's right, I did.

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Q. Did you express your views at the subcommittee meeting about the best method of meeting the advantageous position at present enjoyed by the airlines? A. I believe that I—my position was to look into the study as agreed by the—as referred to the passenger traffic managers of New York.

Q. You didn't take a stand one way or the other about the desirability of paying the 10 per cent commission?

A. None whatever. I consider it desirable if it is possible.

—2276—

Q. Desirable if possible? A. I think it is desirable to raise commissions if it is feasibly possible, economically possible to do so.

Q. Or if it is possible to get unanimity to do so. A. If it is economically possible. I am talking about the position of American Export Lines.

Q. All right, what happened after that, October 7, 1959, confidential memorandum to the Principals went out? A. This was referred to New York, and there will be some New York correspondence on that subject.

Q. Well, was there a discussion of this at the Principals meeting in October of '59, which followed this subcommittee meeting? A. Yes, the Principals, I believe, agreed to refer this to New York.

Q. That also is not reflected in the minutes of the Principals meetings, is it? A. No, nothing; no definite action was taken. No definite accomplishment was achieved.

Q. No. All that was referred to New York. A. That's right.

Q. So then, you came back over here to this side of the Atlantic and put on your TAPC hat or had your assistant

—2277—

put on this TAPC hat and— A. That's his function, yes.

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Q. —and investigated this matter some more, is that right? A. That's right.

Q. And what position did the American Export Lines take with respect to the desirability of meeting the advantageous position enjoyed by the airlines? A. Out of it, there were two basic proposals. You will have to refresh my memory on the second one. One was paying the commission of 10 per cent. commission on tour business to tour operators. And the other one related point was contribution to the cost of folders produced by tour operators. And after studying those two items, my view was, speaking for American Export, that neither of these proposals would help us to increase our travel.

Q. Now, did you consider any other proposals with respect to increasing your traffic via travel agents? A. Several various items, I believe, were discussed. These were the ones closest to, shall we say, majority interest.

Q. Then, what happened after that go-round here in the United States in the TAPC? Did it go back across the Atlantic to the Atlantic Conference? A. Yes; just exactly in what way it was discussed, I am not positive—either through bulletins or otherwise, but no action was

—2278—

taken.

Q. Do you remember attending a meeting at the Hotel de Crillon in Paris on March 10, 1960? A. March 10, 1960, yes.

Q. Was the subject of promotion of sales discussed there? A. It was.

Q. What was done about it? A. Nothing was accomplished on it.

Q. Well, it is— A. It was referred to a subcommittee meeting of April 20th.

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Q. Did any of the lines express any views one way or the other? A. It may be inferred from this. I haven't a clear, full recollection of it, but that no agreement was reached.

Q. All right, now, what happened following that? A. I am sure that every line expressed its views, of course.

Q. We are now only a year away from these meetings, Mr. McConnell, so your recollection ought not to be too rusty. Can you tell us what happened at the meeting which was held at the Savoy Hotel in London on May 3, 1960, with respect to promotion of sales. A. What specifically happened, I can't tell you, frankly.

—2279—

Q. That's only a year ago, Mr. McConnell. A. That's right, a year ago.

Q. You were there? A. I believe I was.

Q. Was the subject brought up? A. What?

Q. Was the subject of promotion of sales brought up?

A. Promotion of sales? This was on—this is May, 1960?

Q. Yes.

For the moment, Mr. McConnell, just give us your best recollection without looking at the minutes, and then we will go to the minutes and see how it squares with your recollection.

Examiner Roth: I don't think that's necessary. Let's go right to the direct answer.

Mr. Sisk: Well, the witness—

Examiner Roth: That's wasting time, sir.

Mr. Sisk: The witness has indicated, Mr. Examiner, that in his company, they relied—

Examiner Roth: I know it, but you don't have to belabor it. Let's go to the minutes. You have belabored it about six times now.

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By Mr. Sisk:

—2280—

Q. We are getting very close to home here. We are down to within one year, but I would be happy to have you look at the minutes, Mr. McConnell, and they are set forth in Exhibit 28, which Mr. Givens will hand you now. A. Agreed that TAPC be asked to make a positive recommendation for consideration by Principals at their meeting in October, '60, based on the following lines, and so and so.

Q. You need not read the minute itself into the record because it is already part of the evidence in this proceeding, but what I would like to know, Mr. McConnell, is what position did your company take with respect to these matters at that meeting? A. Our position after studying this, both of these items, was that we felt that our business could not be improved by resorting to these devices.

Q. Mr. McConnell, I am not sure that you understood that my question related solely to what position you took at that meeting at the Savoy Hotel in London on May 3, 1960. A. My position at that time?

Q. Yes, sir. A. Was that it was a desirable thing to make a full study of this and to come up with a solid recommendation.

Q. Now, what was the meaning of the words "Positive

—2281—

recommendation"? A. In other words, positive in one way or another.

Q. That's what it means, a positive recommendation? A. That's not directing him to say yes.

Q. In other words, as positive as used here, positive could mean negative? A. That's right.

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Q. Positive or negative. A. A positive recommendation is a forthright—I think “forthright” would be a better word to use, but positive is in there.

Q. At that meeting in London, did you spend the whole day discussing the way in which this minute ought to be drawn up? A. I am sorry, I can't answer that.

Q. Do you remember? A. I can't recall.

Q. Do you remember whether there was any dispute about the language to be used? A. There may have been a dispute. I can't recall that.

Q. Now, was there a vote taken with respect to whether or not to institute those two proposals immediately? A. I am sorry, would you repeat that, Mr. Sisk?

Q. Would you repeat it, Miss Reporter?

(The pending question was read by the Reporter.)

—2282—

A. In London, you mean?

Q. Yes, sir. A. No.

Q. Well, let me see if this is a fair statement of events. The year preceding in Monte Carlo in October, 1958, the decision was made to study the matter. A year had elapsed.

Mr. Neaher: Just a moment. I don't think that's a correct paraphrase. To study the matter of the differences in commission between IATA and TAPC and the effects they might have. That's what your exhibit says and that's what I understood Mr. McConnell's testimony to say.

By Mr. Sisk:

Q. Well, Mr. McConnell, as Mr. Neaher has corrected my statement, it is fair to state, is it not, that in Monte Carlo the preceding year, the decision had been made to study

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the effects of air competition and see what could be done, is that right? A. Of IATA commissions?

Q. Yes. And a year had elapsed and the study had been made, and it was once again before that body which makes these decisions, the Atlantic Conference.

Now, was there any discussion about making a decision to do something at that time? A. In May, '60?

—2283—

Q. Yes, sir. A. There wasn't a positive decision except that there was a recommendation to put these two items of all the much that had been discussed back to New York for a recommendation.

Q. Mr. McConnell, I don't believe that was quite responsive. Do you want to hear the question again? A. Would you please?

(The pending question was read by the Reporter.)

Q. Let me amend that, Mr. McConnell. Was there any discussion to do something other than make a study? In other words, were any of the lines in favor of taking action right then and there on the subject? A. I think some were, yes.

Q. What was the position of the American Export Lines, for or against the action? A. Our position at the time was that we felt that neither of these devices would actually increase our sales.

Q. But you voted to make the study anyway? A. That's right, always willing to consider the possibility that something could be derived out of it.

Q. Can you give us any idea, Mr. McConnell, of approximately how many lines were in favor of taking action right then and there? A. I don't recall, but it would be—I don't recall the number, frankly.

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—2284—

Q. And there would be no way of finding out from any of the Conference records, would there? A. No, there wouldn't be because that subject is always available for discussion again at any meeting and positions do alter.

Examiner Roth: That's enough. That would be, I think, about the 7th answer in the same line, and I don't think it is necessary.

By Mr. Sisk:

Q. Now, Mr. McConnell, following the meeting of the Savoy Hotel in London and the direction to the TAPC to come up with a positive recommendation, what happened with respect to this subject matter? A. The TAPC reported back that it was not able to make a unanimous recommendation.

Q. In other words, the ball was batted back over here to this side of the court, and the TAPC kind of lobbed it back over across the Atlantic again? A. In effect.

Q. And what was the position taken by American Export Lines with respect to the matter when it was over here on this side of the court? A. As I have stated, we felt that there was no advantage to be derived from resorting to this device.

Q. Did American Export Lines at any time evidence a

—2285—

desire to see an increase in rates in connection with an increase in commissions? A. We would naturally be interested in increase in rates to go with an increase in commissions, yes.

Q. And did you take that position in the TAPC? A. Yes, I think I did take that position.

William H. McConnell—AEL Vice Pres.—Cross

Q. What reaction did that receive among your colleagues?

A. I would say the general impression was that this is hardly the time to increase rates, considering the competitive situation.

Q. Did you make it a part of a condition to your going along on the promotion of sales proposals that rates be increased? A. At that time, which was 1960, I would say yes. I believe—may I elaborate a little bit?

Q. Go ahead. A. —that if it were possible to increase rates, this would be the device by which it would make it possible to increase commission.

Q. Now,— I am sorry. A. But the rate situation is a very difficult one today.

Q. Mr. McConnell, if you were in this business with power to make absolute decisions without regard to others, would you have been in favor of raising rates in May of

—2286—

1960? A. In May of 1960, I would, but not in May of 1961.

Q. But in May, 1960, you would have? A. That's right.

Q. And were you able to garner any support in the TAPC? A. Hardly any.

Q. Yours was a lone voice crying in the wilderness? A. I wouldn't say alone. I am sure there were others with us.

Q. With this specific example of the same question being raised in the TAPC and in the AC, tell us why it appears from the documents, at least, that there was one reaction on this side of the water and another reaction on the European side of the water to which question of promotion of sales? A. I would say in answer to that that the Principals are keenly interested in any device which is actually going to promote additional business, but that people on the firing lines here in New York who are held responsible for getting that business, obviously, didn't feel that they could deliver on these two items.

William H. McConnell—AEL Vice Pres.—Cross

Q. Well, Mr. McConnell, don't all the people who are here on the firing line in New York report to their superiors— A. They do.

Q. —on the firing line in Europe? A. That's right.

—2287—

Q. Well, those superiors in Europe were aware, were they not, of their TAPC representatives' views on this subject before they sent the matter back here to the United States? A. Possibly they were, but it would be their view that if all of the traffic managers would get together and agree that this was worthwhile, they would leave them free action to make this recommendation. In other words, they would like to encourage them to change their views if others could prevail upon them to do so.

Q. Mr. McConnell, how is it that this situation in 1958 and '59 and 1960 was handled in the way in which it was handled, whereas prior to that time, for example, in 1951, as we have discussed here this afternoon, and in 1956, the Atlantic Conference simply went ahead and raised commissions where it thought it advisable and didn't raise it where they didn't think it advisable? How do you distinguish between a situation existing in recent times and the preceding situations?

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The Witness: For two reasons in my view. One is that the financial situation of the lines at the time made it readily possible for the principals to make that decision in the past. And, two, that the competitive situation was not so serious as it is today.

William H. McConnell—AEL Vice Pres.—Cross

By Mr. Sisk:

Q. Anything else? A. If you wish me to add, you may—
You must appreciate, Mr. Sisk, that the steamship lines are
going through that agonizing reappraisal, the phrase that
Mr. Churchill made so famous, because our whole role in
these past few years has got to be reassessed. We're not
transportation per se any longer.

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—2300—

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Q. Now, you also made a statement in response to a
question put to you, I believe, by Mr. Blackwell, that you
cannot believe that the retail subagent would steer some-
one from traveling by sea to traveling by air if the potential
passenger really wanted to go by sea, is that a fair sum-
mary of your testimony? A. That's right.

Q. What about the traveler who comes into a travel
agency and is undecided as to which way to go? How do you
think travel agents handle that? A. I would say that the
average travel agent prefers to book him by air because
it is a simpler transaction, inherently.

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—2303—

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Mr. Sisk: Perhaps, Mr. McConnell could just give
us an approximate estimate of what percentage of
the U. S. bookings in the year 1955 were obtained
through subagents.

William H. McConnell—AEL Vice Pres.—Redirect

—2304—

WILLIAM H. McCONNELL—Redirect

By Mr. Neaher:

Q. That's satisfactory to me if Mr. McConnell can give us that. A. Yes; yes.

Q. What would you say it would be? A. Between 75 and 80 per cent.

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—2308—

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Q. Now, isn't it true that American Export Lines and perhaps some of its other competitors too are faced with the fact that during certain months of the year which we call the high season you have a limit upon your capacity? A. That's correct.

Q. Because a ship can only hold so much and can only make so many voyages back and forth during that period of time? Right? A. Right.

Q. And it is only during the so-called low season or off season that unused capacity might exist? A. That's correct.

—2309—

Q. Now, at the present time is legislation in prospect or about to be passed which would alter the picture so far as the American-flag lines are concerned with respect to the use of their ships in off-season? A. Yes. Legislation has been passed and the bill signed by the President which permits us to operate off our trade route, as a result of which we hope to cruise these ships in the West Indies, some of them, this winter, and on which we shall pay ten per cent commission.

Q. And which you hope will generate a considerable amount of traffic during the period when your capacity is relatively available? A. Right. We're dearly hoping so.

William H. McConnell—AEL Vice-Pres.—Recross

Q. The only other solution would be to build more ships?

A. Yes. I think America needs a new ship.

Q. Mr. McConnell, in your years of attending meetings of the Atlantic Conference in a role as principal or adviser to a principal, do you have a view with regard to the unanimity rule in the Atlantic Conference agreement, and, for that matter, in the Trans-Atlantic Conference agreement, as to the desirability of maintaining that rule in its present form?

Do you have a view with regard to that? A. Yes. My
—2310—

view is that it would be a very serious deficiency in the conference without that unanimity rule. I could foresee that, in fact, a minority group of lines could even be forced to the wall, so to speak, by decisions that might be made by a majority, even a strong majority. Each line has its own problems. The unanimity rule allows each line to outline its problems. The unanimity rule has produced results,—

Q. Well,— A. —and it does.

Q. Would you say that would be true with respect to the limited area of agency matters or travel agent matters, including rates of commission? A. I would say that it must apply in every basic decision. It's just as necessary in connection with rates as with commission or with cooperation with the airlines as we now have in the exchange of round trip tickets.

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WILLIAM H. McCONNELL—Recross

—2312—

By Mr. Blackwell:

Q. Mr. McConnell, do you remember your testimony regarding the fact that on the proposition of excursion rates the American lines voted as a bloc? A. Well, we had a common interest. That is my point.

Q. And if European lines—for instance serving the

William H. McConnell—AEL Vice-Pres.—Recross

Scandinavian trade—have a common interest, they are free to vote as a bloc too, are they not? A. Well, they sometimes— The Norwegian Line and the Swedish Line usually have the same views on problems. In this particular case, incidentally, that I refer to, United States Lines and American Export were able to convince our confreres of the wisdom of what we had in mind.

Q. It didn't really make any difference if the proposal couldn't be effectuated without the vote, did it? A. Yes, our viewpoint prevailed and we won our point.

Q. What was your point? A. Through persuasion.

Q. What was your point, sir? A. The excursion rate was to cover two classes, cabin and tourist class, for an experimental period in the winter of 1961-2, the four months from November through February, and the subcommittee had decided that that one and a half fares for the round trip would be applicable during that period with 21 days in Europe and affecting only cabin class and tourist class.

—2313—

We objected to that and said first class is the area where we are losing the most business and that we think the lines ought to reconsider that, that we didn't want to go along with the minutes prepared by the subcommittee. You understand—

Q. Yes. A. —that a subcommittee meeting's minutes are subject to confirmation by the principals within 21 days.

We accordingly stated in detail our views that this would not only widen the gap between first and cabin class fares to a serious degree but would actually lose us first-class traffic.

Q. The American-flag lines at that time had a principal interest in retaining their first-class passenger business?

A. Right.

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

—2316—

By Mr. Sisk:

Q. I showed you an agreement of the Trans-Atlantic Passenger Conference in 1929 and there was no unanimity rule on commissions in that agreement was there? A. Yes, that amazed me, as I told you at the time.

Q. And the Trans-Atlantic Passenger Conference operated under that agreement, didn't it? A. If it did, Mr. Sisk,

—2317—

there's certainly no knowledge of mine that rates or commissions ever were different.

TARLETON WINCHESTER—Direct

—2322—

By Mr. Neahr:

Q. You're familiar with the provisions of the Atlantic Conference agreement? A. Yes, I think so.

Q. Would you describe in a general way what kind of

—2323—

business comes before the Atlantic Conference? A. Well, of course, mostly— I mean the most important things are the rating of ships, questions of commissions, all the things you might say that are the revenue and expenses of the companies concerned as far as the passenger traffic is concerned.

Q. At the present time how many American-flag carriers are there who are members of the Atlantic Conference?

A. There are three.

Q. That is United States Lines, American Export, and American President? A. That's right.

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

Q. And approximately how many foreign carriers would you say? A. I think there are something like 16. I'm not really sure.

Q. Not sure? A. No.

Q. At any rate it's a vastly greater number than the American-flag carriers? Right? A. Yes.

Q. And have there been any Atlantic Conference meetings on this side of the Atlantic that you know of? A. In America?

—2324—

Q. Yes. A. No, not that I know of.

Q. Not in the United States? A. No.

Q. They're all held abroad? A. Yes.

Q. Generally speaking, who attends these Atlantic Conference meetings abroad on behalf of the foreign lines? And when I say who, I'm not interested in the names of individuals but in their capacities with their lines. A. Well, over the years it seems to have been a sort of tradition that the Atlantic Conference was very often—in fact, many times—attended by the actual heads of the lines. That was when— That's going back quite far, I mean, even to the names of Albert Ballin and people like that.

But in recent years that has still continued but as new people have come into the business who were interested more in finance perhaps or freight, the passenger traffic managers or directors of the companies dealing with passenger traffic have attended as principals, or the general managers rather than the actual presidents.

Q. Now, you have mentioned that the business that comes before the Atlantic Conference includes, among other things, agreeing upon the maximum rate of commission to be paid sub-agents. Isn't that right? A. Yes.

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

—2325—

Q. In your experience as attending meetings over the years, has this been a matter fairly constantly on the agenda of the principals? A. I would say it's always in mind. Whether it's actually in every case mentioned as such as an item on the agenda, that may not be the case, but under some other heading of general situation or something of that sort it always is open.

Q. In addition to matters formally docketed on the agenda of a principals' meeting, do other matters crop up at the meeting itself of that nature? A. They do, and theoretically they should be notified within a certain time before the meeting, and technically could be— A refusal could be made to discuss them. But that practically never happens and never would happen in case of such an important thing as commission. Nobody would refuse I'm quite sure.

Q. From your experience with attendance at meetings of the Atlantic Conference would you be able to state whether the principals have been generally aware of the demand by sub-agents for higher commissions? A. They certainly have.

Q. That has been made known to you in many ways, has it not? A. Yes.

—2326—

Q. Would you say that was true even before the arrival on the scene of an organization know as ICCTA? A. Oh, yes, definitely.

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—2328—

Q. Now, in these Principals meetings in the Atlantic Conference, are formal votes taken as such with respect to various proposals that may be discussed? A. No, I certainly would not say so. I understand a vote is a secret thing.

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

Q. Well, not necessarily. A. And free and secret. I always thought it was, voting. But in any case, there are not votes as such.

Q. No one goes around saying, "How do you vote on this?" A. No. The word "vote" isn't used.

Q. Well, could you explain briefly and in a general way what actually happens inside that room when the Principals get together? A. Well, views are asked and some line will express a certain view. Others will express a differing view from that, and then, there is a general discussion about the views that have been expressed, and finally, sort of narrowed down to something that looks like it might get somewhere.

Q. Generally speaking, when the Principals assemble for their meeting in one of these semi-annual Conference meetings, they have before them a report, do they not, of the subcommittee which has met for sometime prior to the meeting? A. That's correct. There may be a number of

—2329—

divergent views reflected in that report.

Q. And sometimes, there may be unanimity? A. There may be unanimity, yes.

Q. And this forms the basis for the discussion by the Principals? A. That's right.

Q. And have there been times when there has been unanimity or representations of strong or considerable majority reported by the subcommittee when the Principals have taken an entirely different view? A. Yes, that has happened.

Q. Does anything come to your mind as to why this divergence of opinion might come to exist? A. Well, it is as a result of the discussion. People will come forward with something that maybe the others haven't thought of

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

and suddenly you will find that people generally feel, well, really, that fellow is right, or those people are right. They didn't have it quite clearly in their minds, and they will change their opinions entirely.

Q. Certainly it is a fact that as these meetings have been held throughout the years, decisions have been reached on matters before the meetings concluded. A. That's correct.

Q. And sometimes, decisions have not? A. Sometimes, the decision is just that it has to be deferred because it
—2330—

can't be agreed.

Q. As to those matters that are agreed, generally speaking, how would you describe arriving at such an agreement? A. Well, as I said, it is a result of the discussion around the table where the various very often conflicting views are discussed and finally whittled away, the objection is whittled down or the one point is just altered, and it comes out—out of the machine comes something that they can work with, live with.

Q. Would it be fair to say that at some point on a specific proposal, a consensus of opinion gradually emerges to which all eventually give their assent? A. That happens, yes.

Q. But at other times—

Examiner Roth: Will you establish on the record for me how the secretary of a Principals meeting knows when a decision has been reached from discussion when there is no such thing as voting or balloting or anything like that?

Mr. Neaher: I know I should be glad to have you know that.

Would Mr. Winchester please try to explain?

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

The Witness: I will certainly try.

Well, it comes finally to a point where, obviously,

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there is a general view that will, if we can get the right wording, be agreed. And the secretary is very often asked to go out and draw up a minute that reflects what has been discussed, and then that is brought back, read, and probably corrected, changed and so forth, and eventually a minute that is agreed results from that.

By Mr. Neaher:

Q. May I ask you this: At these Principals meetings, isn't it true that there is one man appointed chairman of the meeting? A. That's right.

Q. And is he sort of the moderator of the discussion? A. Yes. It is sometimes quite embarrassing to be chairman because you have maybe quite a strong view as your own line, and yet, you have to take care of everybody, and that does—it largely depends on the intelligence of the chairman in grasping what is going on.

Q. Have you acted as chairman of any of these Principals meetings? A. Yes, quite a few.

Q. Is the chairman the one who makes a decision that a sufficient consensus is developing to then give instructions to the secretary who is present to do something about it? A. That's correct.

—2332—

Q. Is he really, you might say, the channel through which the secretary takes his instructions to do specific things during the course of the meeting? A. He might even draft something down very quickly and hand it to the secretary and say, "Read it out. Does that generally—is that generally all right."

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

Q. Accord with the consensus. A. Yes, and we will get the wording later. You know, the final wording, and it is eventually read carefully and agreed and so forth.

Q. In other words, you might say that the first attempt is an agreement in principle— A. That's right.

Q. —on a point and later comes the formation of a concrete expression of it in the form of a minute. A. That's right.

Q. But, actually, the secretary does not do any balloting, or does he? A. No, he does not.

Q. And he does not act on his own initiative in those meetings, is that correct? A. No, he does not.

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Q. All right, over the past ten years in these Atlantic Conference meetings that you have attended, has a minority of lines ever blocked action on a proposal to increase subagents' commissions?

I will just leave it at that.

Read the question, please, Miss Reporter. A. I think I can answer it.

Examiner Roth: Maybe he would like to hear his question.

—2334—

Mr. Neaher: Let's hear it once more.

(The pending question was read by the Reporter.)

The Witness: I presume you mean that the rest of the lines would have agreed to the increase, but this group just simply said no, is that what you mean?

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

By Mr. Neaher:

Q. Yes. A. I don't think so. I know of no case in which there was a general desire that it didn't go through.

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Q. Would you say, Mr. Winchester, from your personal attendance at Atlantic Conference meetings over the past ten years that proposals to increase commissions to sub-agents have received full consideration by the Principals as regards all economic aspects that might enter into such a decision?

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Mr. Neaher: Well, no. The intent of the question is this: Mr. Winchester has testified that he has practically attended every Atlantic Conference meeting that has been held since 1923. Certainly, he has been, not only there as representative of U. S. Lines, but also as chairman of the meeting and, therefore, somewhat in a dual role. And certainly, he has been an observer of the kind of discussion that has gone on. And my question is directed solely to the point, what kind of discussion in a general way, takes place with respect to such a proposal as increasing sub-agents' commissions at any given time. That's all.

Do you understand?

The Witness: Yes, I think I do.

Of course, I don't see how anybody could consider the question without considering all the angles of it.

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

By Mr. Neaher:

Q. Well, let me put it this way: When you come as a
—2336—

representative of U. S. Lines to such a meeting and know that such a proposal is on the agenda, are you informed as to the position of your line with respect to the proposal?
A. Yes.

Q. And what is the type of information you have? A. Well, we might have the information that our people here in New York would like to see favorable action taken with regard to commissions.

Q. But, generally speaking, in your capacity as Vice President, you are quite familiar with the economic condition of your line, are you not? A. That's right.

Q. You are also familiar, for instance, in the past ten years, with the rising competition of airlines? A. Certainly.

Examiner Roth: I'd like you to speak a little louder. I have difficulty hearing you.

The Witness: I am sorry.

Certainly.

By Mr. Neaher:

Q. And these are matters that are discussed, are they not, at the meeting? A. You mean the questions of expenses in relation to the question of commissions?

—2337—

Q. Yes. A. Yes, of course.

Q. And following such presentations as ICCTA made, either to the Principals directly or through the medium of the small committee meetings, was there a discussion of the material that they presented concerning their case for

*Tarleton Winchester—USL Vice Pres. & European
Gen Mgr.—Direct*

higher commissions? A. Well, yes. You wouldn't receive people and then not pay any attention at all to the representations they had made. You might not agree with them, which is what apparently our friends want, but you certainly would consider them, and they were considered.

Q. Now, over the years, since the end of World War II, there have been various changes in the rate of commission to subagents, have there not? A. There have.

Q. Let me show you this little paper and ask you if in your recollection that is a correct statement of the changes up to and including March 1, 1956. A. Up to May 7, 1956?

Q. May 7, 1956. A. Yes, that's correct.

Mr. Sisk: May I see it?

Mr. Neaher: Yes.

Mr. Blackwell, would you have any objection to my having him read this into the record?

—2338—

Mr. Blackwell: No.

By Mr. Neaher:

Q. Mr. Winchester, would you be good enough to read into the record this summary of the changes as set forth on that sheet? You might read the title, too. A. "LIST OF SUB-AGENCY COMMISSIONS"

MINUTE 21, PRINCIPALS' MEETING, OCTOBER 3, 1946.

	<i>First Class</i>	<i>Cabin</i>	<i>Tourist</i>
Europe	6%	5%	5%
U. S. and Canada	6%	6%	6%
	(min. \$9.50)		(min. \$7.50)

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MINUTE 73, PRINCIPALS' MEETING, MARCH 4, 1948.

Effective 1st October, 1948—commission on all classes U. S., Canada and Europe—6%.

MINUTE 142, PRINCIPALS' MEETING, MARCH 1, 1951.

For bookings on and after March 5, 1951, sub-agent's commission increased to 7½% all classes, except for high season which remained at 6%.

PRINCIPALS' MEETING, MAY 7, 1956. Westbound sailings on and after June 1, 1957, and eastbound sailings on and after April 1, 1957, commission of 7% all classes, all seasons."

Q. Now, Mr. Winchester, over the years of your attendance at Atlantic Conference meetings, you have seen what has been referred to here as the unanimity rule in opera-
—2339—

tion, have you not? A. Yes, indeed.

Q. Insofar as your line, United States Lines, is concerned, has that been a desirable rule? A. The unanimity rule is a basic rule of the Conference, applying to all matters, not just only agents' commissions. And my answer is that I am quite sure that it has been beneficial to the protection of American lines in the Conference.

Q. And would that be true even so far as the matter of setting commission to subagents is concerned? A. Yes. I don't know of any case where any one line has blocked action on agents' commissions.

Q. How about two lines? A. Or two, as I said before.

Well, at least on the unanimity point, anyhow, the record will easily show that almost in every instance, every instance, when a line is in a sole position that eventually,

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

maybe not at that meeting, but it eventually falls in with the other lines. But, as I say, I know of no case where the unanimity rule has operated against the agents.

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[Mr. Neaher] On that same page 62, under date of October 10, 1957, Principals minute 299, under International

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Consultative Council of Travel Agents, the name Cunard was deleted.

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TARLETON WINCHESTER—Cross

—2357—

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By Mr. Blackwell:

Q. Subject to my calculations, I'll represent to you that as of the latest amendment of Agreement 78-40 there are 25 lines. A. Well, I'd say that's correct.

Q. Now, you say that a single principal might represent, say, three lines? A. Yes.

Q. Would each of the lines that that principal represents have a vote at the deliberations of the Atlantic Conference concerning agents' commissions? A. When you say "vote," would be able to express their view.

—2358—

Q. I don't mean express their view. I mean vote. A. Well, I say they don't vote.

Q. Do the principals vote? A. No.

Q. What do you have the unanimity rule for if you don't vote? A. Well, you keep on using the word "vote."

Q. You have the rule. I don't— A. You use the word "vote." It's nowhere I know of in the Atlantic Conference agreement. The vote is not in the Atlantic Conference agreement that I know of.

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

Well, anyhow, to help—I mean naturally I want to help—answering your question, it could be that a line represented by one principal could vote—the unanimity rule—and block everything concerned. Any one line. And I would like to add that that's a good thing.

Q. You mean like what's good for General Motors is good for the United States? Is that what you mean? A. No, what I mean is that while in actual practice the fact that one line is alone usually means that they give way eventually—maybe not at that meeting but eventually—on any matter at all it eventually gives way—but yet in a case of an absolutely vital question that rule would protect that line. And

—2359—

to eliminate that rule would be just like going and talking to Khrushchev when he knows you can't stand for reelection.

Q. Speaking of Khrushchev, Mr. Winchester, there's a company called Polish Ocean Lines,— A. That's right.

Q. —Gdynia American? A. That's right.

Q. Is that a Polish-flag line? A. Yes.

Q. Poland is a Communist country, is it not? A. Yes.

Q. Poland could block any action of this— A. Yes.

Q. —Atlantic Conference, could it not? A. Yes.

Q. How many ships does the Gdynia Line operate? A. One as far as I know.

Q. The BATTERY? A. Yes.

Q. Has it always operated in the North Atlantic trade or does it divert to other trades and go off on cruise business a great deal? A. It goes off on cruise business.

Q. When it's off on cruise business could they still vote no to an Atlantic Conference proposal? A. I would sup-

—2360—

pose any member could regardless of where his ships are.

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

Q. Now, there are 25 lines listed at pages 2 and 3 of Exhibit 2 which purport to make up the membership of the Atlantic Conference approved by the Board on August 4, 1960. Now, it is a fact, is it not, that each of those lines could, if they refused to go along with an Atlantic Conference recommendation or proposal, block action? Is that correct? A. Yes, that's correct.

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Q. Now, Mr. Winchester, you stated in answer to a question by Mr. Neaher that you could not recall either one or two lines ever blocking conference action. Is that correct? A. I didn't mean to say that they did not at a meeting prevent action, but I in fact had more in mind the question of the unanimity rule as to any record of any one line always holding out against anything. Certainly nothing to do with commission.

—2371—

Q. The way the Conference works, by hypothesis, you cannot block action because the action is always subject to discussion at the next meeting, is that correct? A. It certainly is likely to be because somebody will put the same thing on the agenda again.

Q. If for any reason we would seek to verify your statement, is there any place in the Conference documents, in their minutes or any other documents that we could look to see whether in fact one or two lines have ever blocked Conference action? A. I don't know of any place.

Q. At the present time, there are, as we have seen from Exhibit 3, roughly 25 lines in the Atlantic Conference. Has there ever been an occasion when 5 or less lines blocked Conference action? A. That's such a very difficult thing to

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

say because if there isn't unanimity, you really don't know all the lines who in the end would not have been in favor of the motion. You just can't put it down to clear-cut things like that.

Q. Well, even short of a vote, Mr. Winchester, there comes a point in the Conference deliberations, does there not, when each party makes its position known. And if there appears to be a sizable minority against a certain proposition, the matter will either be dropped or set over for

—2372—

the next agenda or for the next meeting. A. You know the position that people express when they first come in. And it changes at various times during the meeting. And it is very often linked up with other things. Like, for instance, a line will say, "Well, on this thing, I will probably agree to it if I am satisfied on item No. so and so," which is to come later. You don't get these clear-cut—

Q. I take it that you don't get these clear-cut decisions, paraphrasing your answer, because the process is perhaps akin to the collective bargaining procedures where union and management sit at different sides of the table, both take, at least initially, strong views and then come closer and closer and closer together. A. I suppose. I have never sat in on such a thing.

Q. Is that your general understanding of what happens?

A. A general discussion gradually getting toward the likelihood of agreement or the unlikelihood of agreement.

Q. Now, in the collective bargaining procedures, if there is no agreement reached, you can either have a strike or the union accepts the terms that are available. If there is an inability to agree in the Conference procedures whether that reflects the negative attitude of one or many, what is the effect of that action? A. It would be deferred.

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

—2373—

Q. Tried again? A. Yes.

Q. And if no— A. Tried again.

Q. —unanimity is agreed upon? A. Try again.

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—2375—

A. Well, I think the memorandum reflects several different proposals as to, one, 7½ per cent, and one something else. There were various things.

Q. Were a majority of the lines in favor of any of the proposals that were deliberated during that meeting? A. The majority? There must have been. I don't know.

Examiner Roth: What was your answer?

The Witness: I don't know because you can't always tell how a person is voting. It isn't as easy as it sounds. As long as he doesn't have to say anything, he just keeps quiet. Later on, he might say, "No, wait a minute."

By Mr. Blackwell:

Q. All our processes of recollection certainly are susceptible to the passage of time, Mr. Winchester. If we attempted today to go through the Conference files to determine whether a majority of lines was in favor of a specific proposal to raise commissions, is there anything in the Conference files that would enable us to do so? A. I don't see what.

Q. Was there unanimous action on the question of deferral to the next meeting? A. Well, yes, because, undoubtedly, the chairman would say, "Well, the only thing is to defer to the next meeting." Everybody said, "Agreed, got

—2376—

trains to catch; we are in a hurry."

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

Q. So, really, there is a compound deliberation on every action that the Conference can't agree on—one, that there is a deliberation as to whether they will reach unanimity and if they do not reach unanimity, there is an, almost a concomitant agreement to defer, is that correct? A. You mean if there is either the alternative of unanimity or not unanimity? Is that what you mean?

Q. Yes. A. Yes, that could be. But, as I say, even if unanimity is not obtainable at that time, the answer is that, as you have seen, it was eventually obtained, and the commission was increased and gave the agents about a million or so dollars a year more income.

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—2383—

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Q. Now, I would like to show you a document that to my knowledge has not been marked, and it indicates that it is an amendment to the Trans-Atlantic Passenger Conference approved by the Federal Maritime Board on May 18, 1929. And in subparagraph (a) under "Determination—"there is an indication, at least as I read that paragraph— It indicates that the member lines of the then Trans-Atlantic Passenger Conference could by unilateral action set the rates on commissions payable to travel agents with the caveat that there must be agreement on the amount or the

—2384—

length of time in which notice would be given to the member lines.

Do you read that about the way I— A. This is the Trans-Atlantic Passenger Conference in New York.

Q. That's right. A. Yes.

Q. Did you read— A. I see what it says.

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

Q. Do you agree that I've at least attempted to state it fairly? A. I think so, yes. You always do.

Q. There appears to be, to me at least, on the basis of this document and your testimony, some conflict as regarding the jurisdiction of the respective conferences governing rates of commission payable to travel agents. Can you clarify the record for us on that point? A. My understanding is—and I must say I'm subject to correction—but that despite what it says here the actions under this in regard to rates and commissions had to be agreed by the Atlantic Conference.

Q. You mean the Atlantic Conference did, in fact, deliberate and reach agreements on levels of commission despite this? A. They might deliberate and say what they wanted
—2385—

to do, but they couldn't do it till the Atlantic Conference agreed.

Q. Well, do you know whether the Atlantic Conference on May 8, 1929 was composed of the same general membership as the Trans-Atlantic Passenger Conference? A. I'd say generally, but there might have been some members of the New York Conference that were not members of the Atlantic Conference. I'm not sure of that.

Q. Well, in view of your testimony, do you know whether this paragraph designated (a) had any effectiveness in the setting of commissions in the trans-Atlantic trades? A. You mean that whether— If they ever made a recommendation for something whether it was allowed to proceed and did proceed? I would say probably almost certainly it did.

Q. Well, paragraph (a) there indicates that the lines can pay whatever commission they want on an individual basis.

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

Is that correct? A. Well, it may indicate it, but I can't imagine such a thing.

Q. Well, isn't that what it says, Mr. Winchester? A. It certainly is what it says. But I can't imagine in practical sense how it could possibly be so.

Q. Well, in your opinion does this— Well, strike that, please. And in the '20's and '30's before agreement could
—2386—

be reached or before action could be had on proposals to raise commissions in the Atlantic Conference there must of necessity be agreement? That is, there must be unanimous consent of the lines? A. Anything. Not only just commissions.

Q. And the document that you have before you indicates that unanimity is not required on the issue of commissions? Is that correct? A. It indicates that every line can make any rate it wants and any commission it wants, which is so impossible that you—

Q. Had you ever seen this document before? A. I don't think so.

Q. Can you explain its being in any way? A. I imagine it must have been drawn up as the document submitted for the Trans-Atlantic Passenger Conference.

Mr. Blackwell: Mr. Neaher, would you care to see this?

Mr. Neaher: I'd like to see it. I haven't as yet.

Mr. Blackwell: I think you tendered it to Mr. Sisk.

Mr. Neaher: I didn't know I did.

Mr. Sisk: Mr. Knowles supplied it with other old conference agreements.

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*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

—2394—

By Mr. Sisk:

Q. Now, what is Mr. Woodley's relationship to you?

A. He is assistant European passenger manager under Mr. D'Olier, who is European passenger manager.

Q. And so that Mr. Woodley reports to Mr. D'Olier, and Mr. D'Olier reports to you? A. Yes.

Q. And then you report to Mr. Gautier? A. Yes.

Q. Now, when Mr. Woodley attends the subcommittee meetings, does Mr. Woodley go to those meetings armed with instructions from you or from Mr. Gautier? A. He has— It's a rather similar procedure to a principals' meeting. He has a memorandum of the remarks of our New York office on the agenda, and he will endeavor to follow those.

If he finds that there is some—there is divergent view or might be an agreement on something a little different, he probably would call Mr. D'Olier, if he was not there, or

—2395—

me if— Mr. D'Olier and he would call me if they were both there.

Q. And have you received calls of that nature with respect to commission matters in the subcommittee? A. I wouldn't— I don't remember. I wouldn't think so.

Q. As best as you can recall, do you remember any instance in which Mr. Woodley took one position at the subcommittee meeting and you took an opposite position at the principals' meeting? A. Only insofar as at the subcommittee meeting all lines are rather iron-clad in the position that they have been instructed to take, and then at the principals' meeting, after having heard the discussions and been influenced by them, I might say, "Well, we won't stick to that," or I might say, "I'll have to call New York and see

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Gen. Mgr.—Cross*

if they will go along now." Just as said before about other items.

Q. Mr. Winchester, you read into the record at Mr. Neaher's request certain commission figures which went back to the year 1956. Can you remember what the commission was before World War II? A. I think five per cent.

Q. Across the board? A. I think so. Now, there might
—2396—

have been some variation.

—2404—

Q. Is it your testimony that in the period 1950 down to this time there has been no occasion on which a minority group prevented action being taken in the Atlantic Conference with respect to an increase in commissions? A. A minority group?

Q. Or minority. Strike the word "group."

—2405—

The Witness: Well, I know of no— I have no knowledge of a case in which I know that a majority was in favor and a minority refused to agree.

—2421—

Q. Mr. Winchester, do you know a Mr. Wijk, W-i-b-j?
A. W-i-j-k?

Q. Maybe that's right. A. The Swedish American Line.

Q. What is his position with that line? A. I think he is President or Managing Director. Eric Wijk.

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Cross*

Q. I believe that's correct.

And does he attend the Atlantic Conference meetings
—2422—

from time to time? A. Yes.

Q. Do you know that Mr. Wijk in 1956 was a director of the Scandinavian Airline System? A. No, I don't—I don't know it, but I think he is, that that is so.

Q. You actually include that in your letter of March 9, 1956, to Mr. Brennan. A. Yes, that's correct.

Q. Do you know any— A. That was in connection with the bookings or joint bookings or bookings one way air and one way sea.

Q. Well, it was in connection with that item on which I made the offer of proof relating to the sea-air relations. A. That's what it was. It wasn't commission. It was the working out of an arrangement that was very beneficial to agents and the traveling public.

Q. Well, Mr. Winchester, do you know any other Principals of the Atlantic Conference who are also directors of international airlines other than Mr. Wijk? A. Well, I think Mr. Furness is the director of Furness Cunard Eagle. But that's a very new development.

Q. And anyone else? A. And I wouldn't be surprised if somebody in the Holland-America Line is on the board of KLM. I don't really know.

—2423—

Q. Who is that likely to be at the Holland-America Line? A. Now, I don't know, but I think Mr. De Monchy was.

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Q. How does the subcommittee get its instructions from the Principals when a subject has come up at the Principals' meeting and has been discussed in the way in which you describe discussions taking place, no unanimity has

*Tarleton Winchester—USL Vice Pres. & European
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been reached and the matter is referred to the subcommittee? A. Well, sometimes, it doesn't have any instructions. It is just sent back to them to mull it over some more. In this particular case, I think there was an urgency in regard

—2424—

to the date. They wanted action quickly, and that was the reason why some more detailed lead was given to them.

Q. Well, you say sometimes no instructions are given to them. What happens when we have an occasion on which there are instructions, other than this Aide Memoire situation? How are those instructions conveyed to the subcommittee? A. There wouldn't be any way that the Principals as a group would give them instructions. Each Principal would instruct his own man, "When you go back, maybe you don't need to take such a strong position on this," you know. Give them some little leeway for negotiation. Otherwise, they would never get anywhere.

Q. Do the people who attend the subcommittee meetings sit at your side, the side of each member of the Atlantic Conference, each Principal, during the Atlantic Conference meetings? A. Yes, they usually have their assistants right next to them.

Q. And they are kept advised during the course of the meeting what the positions are of each of the members? A. Well, they can hear.

Q. Then, when a matter is deferred or referred to the subcommittee, they would know what had gone on at the Atlantic Conference meeting, and they might, in turn, receive some additional instructions from their Principals?

—2425—

A. That's correct.

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Gen. Mgr.—Cross*

—2432—

Q. Mr. Winchester, will you identify for us this document? A. Identify it?

—2433—

Q. Yes, by date and from and to whom it was written.
A. A letter dated June 12, 1953, to Mr. J. F. Brennan, New York, from me.

Q. And it is this letter which you wrote which is excerpted here in the response of your company to the interrogatories of ASTA and Public Counsel at page 65 under the heading June 24 to 30, 1953, A. C. Minute 173, is that correct?
A. This is a quotation of this, you mean?

Q. Yes. You wrote item 2, Commission, which appears on page 65 of the response? A. This is a quotation of this, yes.

Q. When you say, "This is a quotation of this," you are pointing to Exhibit 96, at page 65 as being a quotation from your letter of June 12, 1953? A. That's correct.

I would say that I didn't dictate that letter, but I signed it. So it's my letter.

Q. Who did dictate it? A. I would think Mr. Woodley. That's his secretary's signature.

Q. You read it over? A. These are her initials, I mean.

Q. You read it before you signed it? A. Oh, yes.

—2434—

Q. So it reflects your— A. For all intents and purposes, my letter.

Q. —views as well as those of Mr. Woodley. A. Yes.

—2435—

Q. Where you say, after discussing the question of commissions in the first paragraph, that "during our talk in London it was understood that you are opposed to adopting 7 per cent instead of 7½ per cent," to whom are you referring? A. To Mr. Brennan.

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Redirect*

Q. And the "our talk in London" was a talk which you had with Mr. Brennan? A. Must have been.

Q. Do you know what commission the airlines were paying in June of 1953, the international airlines, when you wrote that? A. I should think 7 per cent.

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TARLETON WINCHESTER—Redirect

—2438—

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By Mr. Neaher:

Q. Now, in your examination by Mr. Blackwell, he brought up the possibility that the Polish Line as a line having its domicile in a Communist country could under the unanimity rule block action by the conference. Do you recall that testimony? A. Yes.

—2439—

Q. Now, how long has the Polish Line been a member of the Atlantic Conference? A. Well, you mean as at present constituted? The line I mean? It's comparatively recently. But they were members before the war.

Q. Before the war under what name? A. Gdynia America Line.

Q. Well, they still use Gdynia America Line, do they not? A. I think they call it Polish American Line.

Q. Well,— A. It's the same thing except one is under a Communist government and the other wasn't.

Q. If I were to show you a letter recently received from the Polish Ocean Lines with a letterhead Gdynia America Line, would that refresh your recollection as to current use of that name? A. Here they have got both Gdynia America Line and underneath it the Polish Ocean Line, and I presume that may be because of the value of the

*Tarleton Winchester—USL Vice Pres. & European
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trade name Gdynia America Line, and they may have other services where they use Polish Ocean Line—to the Mediterranean or something like that.

Q. Well, you said they were members before the war and then after the war did they renew their membership?

—2440—

A. They came in— I can't remember exactly when. But I should think five or six years ago. I should think so.

Q. During that time have they ever by any activity of theirs in a conference meeting attempted to block action by other member lines on matters that were up for discussion?

A. Not at all. I wish everybody else was as easy to get on with.

Q. Now, you were asked by Mr. Blackwell about the ports or routes served by the various member lines of the Atlantic Conference. Do you remember that? A. Yes.

Q. Does United States Lines have any view with regard to the question as to whether or not ports in Europe are or are not competitive with its services? A. You mean a port that we don't actually go to?

Q. Right. A. Well, of course. There is competition between various areas. For example, Rotterdam is extremely competitive with both Bremerhaven and Havre.

Q. Well, for instance, would you regard Meriterranean ports as competitive— A. There's a certain amount of competition. That is one of those things that works both ways. Some people like to go the southern route one way and the northern route the other way, so that there is co-

—2441—

operation and yet at the same time there is a certain amount of competition.

Q. Would that be true with respect to Scandinavian ports? A. Scandinavia not so much, except where you get to Hamburg and Copenhagen. They're very competitive.

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Redirect*

Q. Now, you say you go back to 1923 with the Atlantic Conference, Mr. Winchester? A. Yes.

Q. Was that the year the Atlantic Conference as such originated as we know it today? A. No. It had been re-formed after the first war. I would think in 1921.

Q. Re-formed? A. Yes.

Q. Well, at that time, in 1923, were there other European conferences? A. There was a Mediterranean Conference which was separate from the Atlantic Conference.

Q. Was there any other— A. Now, whether there was exactly in 1923 I'm not sure, but I think there was. Anyhow, there was a little later. But one member of the Mediterranean Conference was also a member of the Atlantic Conference.

Q. Well, in addition to this Mediterranean Conference and the Atlantic Conference, was there still a third confer-

—2442—

ence? A. Well, there was a thing called the North Atlantic Passenger Conference in Liverpool, but that was not really a conference. It was a kind of a thing for dealing with matters in the United Kingdom, especially emigration, various things of that sort. It didn't run any ships. Its members didn't run any ships.

Q. Was there a conference known as the Continental Conference at that time? A. Not when I got into the thing in 1923. All the continental lines were members of the Atlantic Conference.

Q. At that time? A. Yes.

Q. Had you ever heard of a Continental Conference? A. Not unless it's going way back before the formation of the Atlantic Conference.

Q. Did the lines that were members of the Mediterranean Conference eventually come into the Atlantic Conference as we know it today? A. Yes, they did, because for quite

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Further Direct*

a long time there was a sort of a liaison committee between the two conferences. That was Captain Cosulich and myself usually—always, in fact. Kind of trying to work in such a way that there was a reasonable amount of cooperation.

And eventually it was decided that there was no sense
—2443—

in having two conferences and it would be better to join them all into one.

Q. Do you have any recollection as to the date when that amalgamation took place? A. No. I find it awfully difficult to remember—

Q. It would have been after 1923? A. Oh, way after, yes.

Q. After 1930? A. In the '30's I would think.

Q. In the '30's? A. Yes.

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—2445—
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Q. Mr. Winchester, in response to a question from Mr. Sisk you indicated that members of the subcommittee actually sit beside the principals in the principals' meeting itself. Isn't that right? A. That's correct.

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TARLETON WINCHESTER—Further Direct
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—2464—

Q. Now, one last matter, again, and that's this unanimity rule. I think I went into that this morning, but I am a little uncertain as to whether there might be some area in which we could improve the state of the record.

I think your testimony was that in your years with the Atlantic Conference the unanimity rule has worked well so far as your line is concerned as an American-flag carrier. A. That is correct.

*Tarleton Winchester—USL Vice Pres. & European
Gen. Mgr.—Further Cross*

Q. What is your view as a representative of United States Lines with respect to the advantages of that rule to your line? A. Well, as I said before, it is a protection in case of something very vital and even though, as I said, almost invariably—in fact, invariably—in time, a line who has stood out alone eventually agrees. That is so. But, yet, to eliminate the unanimity rule and adopt, for instance, the majority rule would be like going to a meeting with Khrushchev when he knew you could not run for election any

—2465—

more.

Q. You mean you would be deprived of a bargaining position? A. Yes, of a safeguard.

Q. These meetings in which these decisions are reached are negotiating sessions, are they? A. That's right.

Q. That's all.

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TARLETON WINCHESTER—Further Cross

By Mr. Blackwell:

Q. You have stated as far as U. S. Lines is concerned, the unanimity rule affords you a measure of protection in case of something very vital? A. That's right.

Q. Does the same thing for every other line in the Con-

—2466—

ference, doesn't it? A. That's right.

Q. Whether big or small. A. That's right.

Q. Whether they operate in the United States trade or not. A. If they are members of the Conference, yes.

Q. No further questions.

By Mr. Sisk:

Q. Mr. Winchester, you stated in answer to the question just put to you by Mr. Neaher with respect to the unanimity

Donald I. Knowles—TAPSC Sec'y—Cross

rule that as best you can recall in every instance, the hold-out or the minority line, the one which wouldn't go along eventually agrees, is that correct? A. That's correct.

Q. That may take some time. A. That's right.

Q. Years, in fact. A. That can.

Q. No further questions.

Mr. Neaher: Has there ever been an occasion when it has taken years?

The Witness: Well, I think the final decision to increase the commission took quite a long time.

Mr. Neaher: You do? Because of one line?

—2467—

The Witness: No, I don't say because of one line.

Mr. Neaher: Because of three?

The Witness: To get unanimity took a long time.

Mr. Neaher: No further questions.

DONALD I. KNOWLES—CROSS

—2498—

By Mr. Sisk:

Q. Mr. Knowles, did you have a search made of the archives of the TAPC? A. Yes, sir.

Q. And did you find certain old agreements in those archives? A. Yes, sir.

Q. And have you provided me with copies of them or with the actual documents? A. I think counsel did.

Q. Can you identify for us this document? A. That's one of our documents.

Q. What is it? A. North Atlantic Steam Traffic Conference.

Q. On what date and where was the first meeting of that conference held?

Donald I. Knowles—TAPSC Sec'y—Cross

The Witness: Well, from the first item in the document it indicates that the first meeting of the —2499— conference in New York was held March 5, 1868, office of Sir Edward Cunard.

—2500—

Now, do you have before you a document relating to the Continental Conference? A. Yes, sir.

Q. And would you tell us when the first meeting of that was and where it was held? A. Held at No. 19 Broadway, New York, on Monday, May 4, 1885, at 11:30 o'clock a.m.

—2522—

Q. Generally speaking, Mr. Knowles, from your familiarity with the figures supplied to you by IATA and with the figures of the TAPC itself, and without giving us any specific details which you feel are somehow or other held in confidence, would you tell us what has been the trend in IATA carryings as contrasted with TAPC carryings in the years 1955 to the present as best as you can recall? A. Well, we have maintained a fairly constant figure. Taking that as an overall question is difficult, Mr. Sisk. It's common knowledge that airline carryings have progressively increased. They have opened up new markets of short vacation travels. They brought in the jets. They've done a fantastic job in advertising. All those things combined. Our figures have remained fairly constant.

Joseph Mayper—TAPSC Chairman & Sec'y—Direct

JOSEPH MAYPER—Direct

—2550—

A. I may not be able to cross every "t" and dot every "i." It's 33 years ago. But I have a general knowledge based—which together with my examination of the agreements now gives me a sufficiently clear picture of what the situation

—2551—

was at that time, and, as I recall it, it was as follows:

There was in existence on this side, in the United States, three conferences dealing with passenger business across the Atlantic. The names given to those three conferences on this side were Mediterranean Conference, Continental Conference, and North Atlantic Passenger Conference.

Q. Could you state briefly what groups of lines on that document might be said to have been embraced within those three groups? A. The Continental and North Atlantic Passenger Conference Agreement lines were almost identical. They had different jurisdiction insofar as the passage was concerned or certain classes of passage. But the lines themselves were the same. Not all of the Atlantic Conference lines may have been members of the North Atlantic Passenger Conference, but all of the North Atlantic Passenger Conference lines were members of the Atlantic Conference—of the Atlantic Conference abroad. I'm going a little too fast.

Examiner Roth: You mean Continental?

The Witness: Coming back, the three conferences on this side as I have indicated— There were three, the Mediterranean, Continental and North Atlantic

—2552—

Passenger. On the other side, just moving abroad for the moment, on the other side there were also three conferences. There was the Mediterranean

Joseph Mayper—TAPSC Chairman & Sec'y—Direct

Conference with headquarters in Genoa. There was the Atlantic Conference with headquarters in Brussels. And there was the North Atlantic Passenger Conference with headquarters in Liverpool.

The Mediterranean Conference abroad had jurisdiction over the establishment of rates and rates of commissions and rules relating thereto with respect to transportation between the Mediterranean ports and the east coast of North America; United States and Canada were the particular points.

The North Atlantic Passenger Conference— They used the same name on the other side, or, shall we say, on this side we used the same name as the conference in Liverpool. They had a very limited jurisdiction. Their jurisdiction related solely at that time to third-class or tourist-class transportation between the British Isles and this side, United States and Canada.

The Atlantic Conference had jurisdiction over all first-class, all second or cabin-class—the names were used interchangeably—and all third or tourist-class transportation through all continental ports, Scandinavian ports and I think Icelandic ports were included, leaving the British ports to the North Atlantic

—2553—

Passenger Conference, and they also had jurisdiction over the Finnish and Scandinavian. I mentioned that. Third-class Finnish and Scandinavian.

Each of these European conferences had direct jurisdiction over all matters relating to the establishment of rates, fares, and rates of commission and rules of procedures emanating from those basic matters.

On this side, coming back again to this side, the three conferences had the same secretary. Mr. Sid-

Joseph Mayper—TAPSC Chairman & Sec'y—Direct

ney E. Morse was secretary at the time. Their offices were at the same address, same offices, but different documentation was used for the respective conference activities, Mediterranean, North Atlantic Passenger, or Continental.

It was deemed advisable by all of the lines involved to establish a single conference on this side since the activities of the three on this side were practically parallel. They dealt individually with the appointments of agents and bonding and things of that sort and, respectively, to execute such matters that were delegated to them by the parent conferences, if you please, on the other side with respect to rates and rates of commission.

—2554—

Since the activities on this side for the three Conferences were of a parallel nature, the lines on this side decided it would operate—their activities would operate more efficiently if they were organized in one conference. That one conference was the Trans-Atlantic Passenger Conference. That Conference was established in 1929, was approved by the Board on February 12, 1929, is numbered 120, and is the forebear of the Trans-Atlantic Passenger Conference that we have been talking about through these proceedings.

Over a period of 32 or 33 years, there have been some 75 or 80 amendments filed with the Maritime Board or Shipping Board, or its predecessor agencies, until we now have what is equivalent, I think, to Exhibit 1 of the Trans-Atlantic Passenger Conference together with those appointment agreements that I think are in Exhibit 3.

Joseph Mayper—TAPSC Chairman & Sec'y—Direct

And it was the development of these changes which was a slow development, depending upon changes in conditions and needs and requirements of law and various other matters.

In preparing the first 120 agreement that I have before me, we faced a problem with respect to rates and rates of commissions because we would be one conference on this side and three conferences on the other side, where the other side conferences had the

—2555—

full power with respect to rates and commissions. So we devised this method of preparing our basic agreement for this side. Each line is to determine its own rates and rates of commission, knowing that under the rules to be adopted under the authorized provisions, the respective groups of lines would have to conform with the requirements of the agreements on the other side where the same lines were involved with respect to the establishment of rates and rates of commission.

It was with that idea that the clause with respect to determination was evolved in the manner indicated.

By Mr. Neaher:

Q. And the blue papers represent, then, the effectuation so far as the Continental and Atlantic groups were concerned of having their rates and commissions prescribed for them via rules and regulations adopted for that purpose— A. Yes, sir.

Q. —to conform to their membership obligations under their respective Atlantic and North Atlantic agreements abroad? A. That's right.

Q. Do I understand correctly that if we may call it a counterpart that the Atlantic Conference with headquarters

Joseph Mayer—TAPSC Chairman & Sec'y—Direct

in Brussels was the counterpart of what you called the Continental Conference here? A. That's correct, but the
—2556—

North Atlantic Passenger Conference abroad members were all members of the Atlantic Conference—

Q. I see. A. —because of the jurisdiction on first class and second class business.

Q. There was a sort of intermingling over there? A. That's right, and for that reason, we established only two groups on this side, the Continental-North Atlantic group since their activities were practically uniform or unified in a way, and the Mediterranean group.

Q. And to your knowledge, were these foreign conference agreements—namely, the North Atlantic, Atlantic and Mediterranean groups, filed with the United States Shipping Board here? A. Yes.

Mr. Neaher, I did not file them personally, but I am quite sure from my recollection of the history of the matter that they were filed and had been approved. They were filed shortly, to the best of my recollection, after the 1916 Act was enacted. They were in the form of memoranda of agreements, not as fully outlined as we have agreements now. And as large bodies move slowly, even as Conferences do sometimes, Mr. Blackwell, it took only 8 years for the then Shipping Board to approve one of these agreements.

—2557—

Q. From what you have said, Mr. Mayer, is it fair to conclude in effect, then, that after those rules and regulations were adopted, insofar as the Atlantic and Continental group of carriers on this side were concerned, the situation was no different with them than it is today under the present Atlantic Conference and Trans-Atlantic Conference Agreements? A. The same type of relationship existed.

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Joseph Mayper—TAPSC Chairman & Sec'y—Cross

—2571—

By Mr. Sisk:

Q. Mr. Mayper, during Mr. Knowles' examination, he was asked about the bankruptcy or insolvency of the Arosa Lines, and he indicated that he had only a slight knowledge of the actual incident and that you had much more knowledge about it.

My question to you is: Can you tell us whether follow-

—2572—

ing that bankruptcy the members of TAPC considered taking any action to protect the public and the travel agents against a similar occurrence? A. I have heard some talk about it but I do not recall any formal action of any kind—while I was there at any rate. Because the Arosa situation arose not so long before I left.

Q. As sort of a sub-question to that, when you say you heard some talk about it, can you tell us whether the talk which you heard indicated that there were a majority of lines in favor of taking some kind of action about it? A. There was no question of majority of lines. It wasn't anything that was considered at a meeting or discussed in that way at all. I heard some talk in a general way individually.

Q. That's all you have to tell us about it? A. That's all I can tell you.

Q. The second question involves a travel agency called Air Marine Travel Service, of which one Thaddeus Hyatt is the principal. Do you remember an instance in which Mr. Hyatt approached you and requested permission for his travel agency to book a family with much baggage and household goods on a nonconference carrier direct to Trieste, Italy? And, if so, will you tell us what your an-

Raymond H. Hering—ASTA Exec. V. Pres.—Direct

—2573—

swer to him was? A. I have a very faint recollection of a talk with Mr. Hyatt. I don't know whether it dealt with a trip to Trieste or to some other place. And I think there was some reference to a nonconference ship. I probably told him what I would have told anyone else at that time—that under the rules he could not book passengers for a nonconference line.

—Q. Thank you, Mr. Mayper.

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RAYMOND H. HERING—Direct

—2574—

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By Mr. Neaher:

Q. Several years ago did you have occasion to submit a prepared statement in a matter pending before the Civil Aeronautics Board known as the ATC Agency Resolution Investigation, Docket 8300, et al.? A. Yes, sir.

Q. In that statement did you have occasion to speak in some detail about what we know as the conference agency system? A. Yes, sir.

Q. Is it true that in that statement you advised the Board that, "The American Society of Travel Agents favors the conference method of appointing agents"? A. I can't answer that quite yes or no. I can answer that—

—2575—

Q. Well, let me just put it to you this way: According to a document I have here—and I believe I have made this available to you and you have read it— A. Yes.

Q. —a statement appears that ASTA favors the conference method of appointing agents. That statement appears in the statement you've made to the Board, does it not? A. Yes.

Raymond H. Hering—ASTA Exec. V. Pres.—Direct

Q. And then you gave a number of reasons— A. Yes.

Q. —in support of that statement? A. (Nodding affirmatively.)

Q. Isn't that so? A. That's correct.

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—2576—

Q. One of the reasons in support of the statement was that the travel agent is a quasi-professional adviser to the traveling public. Isn't that so? A. Right.

Q. And therefore must be an informed person? A. Yes.

Q. Able to render adequate service to the public? A. Yes.

Q. Isn't it true that another one of these reasons was a guarantee of uniformity of procedures and requirements between the operating companies, meaning the carriers— isn't that so? —on the one hand, and the agents on the other? A. Yes.

Q. And I believe you also gave as a third reason the relative economic security which the conference system affords to agents? A. Words to that effect.

Q. Yes. Now, could you explain just a little bit further what you meant by that statement? A. I think if I recall that portion of it there I talked about the economic security in the sense that it has been customary there to evaluate— At that time in the airline hearing I think this was in support of a need clause, and at that time we were

—2577—

talking on the basis of keeping away from super-saturation of an area wherein a particular area could not develop additional travel.

Now, there are some areas that we believe through population increases or increases in economics or a combination of both warranted additional agents. But where

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there was no such growth in either population or in economics, super-saturation could take place with a dilution of profits or earnings to the agents, the new and the old.

This could lead in our opinion to sharp practices and defaults, which we believe would affect the public as well as the carriers and the existing travel agents.

Q. Well, what you call super-saturation might also be termed just plain appointing too many agents in a given area? A. I'd say so, yes.

Q. And is it still ASTA policy to be opposed to that? A. To super-saturation of an area, yes.

I'd like to, however, point out that ASTA is not opposed to the appointment of new agents in those areas that can warrant the absorption of new agents in the development of new business.

Q. Well, may I ask you how you would suggest that super-saturation in a given area be avoided? A. I think that that probably could be avoided through the development of some kind of a yardstick based upon economics and
—2578—
population.

Q. By a yardstick— A. Per capita expenditures perhaps.

Q. Well, would you use yardstick in the sense of some minimum standard of bookings for carriers? A. That would be one way of doing it.

Q. Is there any other way you can think of? A. That would probably be as representative as any.

Q. I think it's no secret here that ASTA does have certain criticisms of the conference system employed by the steamship carriers. Isn't that so? A. That is correct. As a matter of fact, that document points out that we do

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not give unequivocal endorsement to the conference systems or procedures.

Q. Now, as I understand it, one of your objections is the objection to any restrictions upon the transfer of ownership of an agency? A. We believe that the conference system there has resulted in perhaps some unfairness, or if it doesn't result in unfairness it tends to leave that area available.

Q. Well, let me ask you this: Do you or does ASTA believe that the steamship carriers should play any part at all in determining who holds their franchise? A. Yes. I think that can be done with objective standards.

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—2579—

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Examiner Roth: For my own benefit, I would like to have established on this record whether you're examining Mr. Hering as speaking for the membership of ASTA or speaking for his personal opinion,

—2580—

and, if you want him to speak for the membership of ASTA, to find out whether or not he has authorization so to speak, and whether he needs it.

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Q. At the time you gave your statement to the Civil Aeronautics Board at the ATC Agency Resolution Investigation, you were authorized to give that statement, were you not? A. Yes.

—2581—

Mr. Sisk: I don't believe, in answer to the question put to counsel, Mr. Hering— At least to my knowl-

Raymond H. Hering—ASTA Exec. V. Pres.—Direct

edge there hasn't been any Board resolution in connection with your appearance here, has there?

The Witness: That's correct. There has not been.

Mr. Sisk: So that in specific answer to the question posed by the presiding examiner, there has been no specific authorization. But I do believe that Mr. Hering's general position with ASTA is such that we would not object to his speaking on behalf of the Association.

Examiner Roth: I just wanted to be able to evaluate this.

Mr. Sisk: ASTA, as you know, is made up of hundreds of different travel agents.

Examiner Roth: I know it. I know what it's made up of, and that's why I asked the question.

Mr. Sisk: Yes.

By Mr. Neaher:

Q. In your statement to the Civil Aeronautics Board, Mr. Hering, you said, "While to ASTA's knowledge there have been few instances wherein an agent has been denied appointment or has been dropped by the conference for less than good and apparent reasons, still the possibility of mistake and perhaps of arbitrary action must be admitted to exist."

—2582—

That is a statement you made at that time? A. Yes.

Q. Now, I'm going to ask you whether in this conference there has been any greater proportion of instances in which an agent has been denied appointment or has been dropped for less than good and apparent reasons.

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Mr. Sisk: Well, will you separate that question into the two parts?

Mr. Neaher: I'll try to do it.

By Mr. Neaher:

Q. Has been dropped by the conference—that is, cancelled or terminated—for less than good and apparent reasons.

A. Mr. Neaher, I don't know whether there would be a comparison between the two. I don't believe I have the knowledge to be able to properly evaluate whether there is a greater proportion in this conference or whether there is a greater proportion in the other conference.

Q. Now, you did verify some of the pleadings, if I'm not mistaken, filed by ASTA in this proceeding, did you not?

A. Verified them through counsel.

Q. Yes. A. Yes.

Q. Pleadings which purport to set forth facts about objectionable features in ASTA's view of conference ac-

—2583—

tions? A. Yes. Through counsel.

Q. Well, to put it very bluntly, is this conference any worse than the air carrier conference was? A. I don't think so.

Q. You might even grudgingly admit it was better? A. I wouldn't say it was any better or actually I don't think it was any worse. I mean I think that the same area exists in this conference as did exist in the air conference for this possibility to happen. I don't think that the Trans-Atlantic Conference is any worse than the air conference was.

Mr. Blackwell: I'm going to make a motion, Mr. Examiner, that the question and answer both be

Raymond H. Hering—ASTA Exec. V. Pres.—Direct

stricken. I don't see how Mr. Hering is competent to testify—

Examiner Roth: I'll grant the motion.

By Mr. Neaher:

Q. May I get back to the subject which I think provoked your next to the last comment, Mr. Examiner. And this had to do with change of ownership of travel agencies. I think I started to say that we had a case— Let us assume for the moment a case of an agent, a well qualified agent, wishing to sell his travel agency to a man named B. Do you believe that the conference carriers ought to have a look at Mr. B before Travel Agent A sells him the fran-

—2584—

chise and the business? A. Before he sells him the franchise or the business or before you approve the sale?

Q. Well, let's just narrow it a little bit. Should the carriers, conference members, have the opportunity to say that Mr. B in their judgment is not qualified? A. Mr. Neaher, I think they should— If you have objective standards that are available, I believe that you should have that privilege.

In other words, what I'm saying on that is if you have certain standards as set forth as to the qualifications for appointment, this same standard would apply on the resale of the agent and then it's available to anyone that wants to resell. It becomes objective instead of subjective.

Q. You would admit the possibility, would you not, that through the transfer of an agency a person not qualified could— A. Yes.

Q. —take that agency if there weren't some way of heading it off? A. Yes.

Q. Isn't that true? A. Yes.

Raymond H. Hering—ASTA Exec. V. Pres.—Direct

Q. And the American Society of Travel Agents would not want that to happen if it could be avoided? A. I'd agree with that, yes.

—2585—

Q. And you say, however, that there should be some objective standards? A. Yes.

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Q. I can simply say I was asking you to suggest some

—2586—

of these objective standards that you refer to. A. I believe there should be a standard of experience and know-how.

Q. So the steamship carriers, therefore, should have the privilege of knowing who it is Travel Agent A wishes to sell to and they should be entitled to demand some statement of the man's experience or at least be permitted to check into it? Would you agree with that? A. I'd agree—I believe I'd agree with that if I understood you correctly, Mr. Neaher. I believe the standards that I'm talking about would apply first of all to the appointment or approval of a travel agent for the conference system. Then from there on in your resale I would say the purchaser would meet these standards.

Q. Yes, but the original applicant for appointment has to come before the Committee on Control of Sub-Agencies, does he not,— A. Yes.

Q. —and in one form or another present to them his qualifications? A. Yes.

Q. And satisfy them that he has a certain potential at least—potential business productivity,— A. (Nodding affirmatively.)

Raymond H. Hering—ASTA Exec. V. Pres.—Direct

Q. —character standing, and the other factors that I
—2587—

think have been mentioned here in the testimony, financial stability, and the like? A. (Nodding affirmatively.)

Q. You believe, therefore, that the prospective purchaser of an existing agency should be treated no less than that? A. That's right.

Q. Well, now, under the original appointment, do you believe that the applicant for appointment should be turned down if he doesn't meet the standards set?

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—2588—

* * * * *

The Witness: Again I would say, Mr. Neaher, that if the standards are set by the conference there I believe that on the resale of an agency that the new owner would meet these standards.

By Mr. Neaher:

Q. Well, in other words, that— A. Or should meet those standards.

Q. —the power should reside in the conference to turn him down if he doesn't meet the standards? A. Yes. Yes.

Q. And therefore that at least requires, does it not, before Travel Agent A sells his business to Mr. B, that he inform the conference in advance of his intention and give them a requisite opportunity to make their determination?

Mr. Sisk: Objected to as leading.

Mr. Neaher: Well, now, Mr. Sisk,—

Examiner Roth: He may answer.

Raymond H. Hering—ASTA Exec. V. Pres.—Cross

—2589—

The Witness: I know of no other practical way you could determine that.

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RAYMOND H. HERING—Cross

—2607—

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By Mr. McManus:

Q. In connection with these questions about the membership in ASTA, do you also have what's known as allied members? A. Yes, sir.

Q. Approximately how many allied members are there? A. Allied firms I'd say there's probably in the vicinity of 1,200.

Q. 1,200? A. 1,300.

Q. And in addition to the firms themselves, do various representatives of the firms— A. Yes.

Q. —also have some type of membership? A. Yes, that's right.

Q. What do they call that member? A. Allied associate.

• • • • •

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(Exh. 1)

Exhibit 1

COPY OF
FEDERAL MARITIME BOARD
AGREEMENT NO. 120-78



New York 4, N. Y., December 21, 1960

The common carriers by water, members of the Trans-Atlantic Passenger Steamship Conference, hereby agree to and, pursuant to the requirements of Section 15 of the Shipping Act, 1916, as amended, hereby file with the Federal Maritime Board for approval, the following modification of Agreement No. 120, between said members of the Trans-Atlantic Passenger Steamship Conference.

Delete the first paragraph of Article C-(c)-2 and substitute the following:

"(2) Discontinuance of Service. If a Member Line ceases to exist, the effective date for termination of membership shall be the last day of the month following that in which such Line last carried passengers; provided that if a Member Line serves notice that it has discontinued or intends to discontinue the transportation of passengers to or from ports which come within the scope of this Agreement, the effective date for termination of membership shall be the last day of the month following that in which such Line last carried passengers, or served such notice, whichever is the later."

Filed by authority of and on behalf of the following carriers comprising the membership of the Trans-Atlantic Passenger Steamship Conference:

American Export Lines, Inc.	
Canadian Pacific Railway Company.....	Canadian Pacific Steamships
Companhia Colonial de Navegacao	
Cunard Steam-Ship Company Limited, The	
Donaldson Line Limited	
Europe-Canada Line, G.M.B.H.....	Europe-Canada Line
Compagnie Generale Transatlantique.....	French Line
Johnston Warren Lines, Ltd.....	Furness Line
Polish Ocean Lines.....	Gdynia America Line
Greek Line - As one member only.....	Greek Line
General Steam Navigation Co. Ltd.*of Greece	
Transatlantic Shipping Corp.	
Neptunia Shipping Co., S.A.	
Arcadia Steamship Corporation	
Sicula Oceanica S. A.....	Grimaldi Siosa Lines
Hamburg-Atlantik Linie G.M.B.H.....	Hamburg-Atlantic Line
N. V. Nederlandsch-Amerikaansche Stoomvaart-	
Maatschappij "Holland-Amerika Lijn".....	Holland-America Line

(Exh. 1)

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Exhibit 1

Agreement No. 120-78

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Home Lines, Inc.....	Home Lines
Inores Steamship Company Ltd.....	Inores Line
"Italia" Societa per Azioni di Navigazione.....	Italian Line
National Hellenic American Line	
Norddeutscher Lloyd.....	North German Lloyd
Den Norske Amerikalinje A/S, Oslo.....	Norwegian America Line
Maatschappij Zee-transport N. V.....	Oranje Line
Compania Trasatlantica Espanola, S. A.....	Spanish Line
Aktiebolaget Svenska Amerika Linien.....	Swedish American Line
United States Lines Company.....	United States Lines
Zim Israel Navigation Company Ltd.....	Zim Lines

By:

(Sgd.) D. I. Knowles
D. I. KNOWLES, Secretary
Trans-Atlantic Passenger Steamship Conference

Exhibit 1

Copy of
Federal Maritime Board
Agreement No. 120-75



New York 4, N. Y., January 19, 1960

AGREEMENT No. 120-2-2
AS MODIFIED BY 120-72

The common carriers by water, members of the Trans-Atlantic Passenger Steamship Conference, hereby agree to and, pursuant to the requirements of Section 15 of the Shipping Act, 1916, as amended, hereby file with the Federal Maritime Board for approval, the following modification of Agreement No. 120-2-2, between said members of the Trans-Atlantic Passenger Steamship Conference.

Modify the seventh paragraph of Rule E-2-(a) as follows: (Old words ~~deleted~~ to be DELETED; words underscored to be ADDED)

I (we) further agree that if this application for appointment as a sub-agency is granted, said appointment may be withdrawn by said Steamship Company at any time after ten days from the date hereof and without previous notice. ~~and shall in any event terminate not later than April 15, 1960, unless prior to such date the said Steamship Company shall, in writing, renew my (our) appointment for a further period of one year under the same or under other terms and conditions, and thereafter from year to year in the same manner, no appointment being effective for a longer period than until the fifteenth day of April next after the date of such appointment unless a contrary intention is clearly and affirmatively expressed in the face of the written renewal of such appointment.~~ Without limitation of the foregoing, said appointment shall continue in effect until April 15 in the year 1960, and thereafter until the same date in each succeeding year unless prior to such date in any year I (we) have not paid the annual sub-agency fee for such year required by the rules of the Trans-Atlantic Passenger Steamship Conference. Upon any such failure to pay such annual fee, this Agreement shall thereupon terminate automatically and without previous notice.

Filed by authority of and on behalf of the following carriers comprising the membership of the Trans-Atlantic Passenger Steamship Conference:

American Banner Lines, Inc.	
American Export Lines, Inc.	
Canadian Pacific Railway Company.....	Canadian Pacific Steamships
Companhia Colonial de Navegacao	
Cunard Steam-Ship Company Limited, The	
Donaldson Line Limited	
Europa-Canada Linie, G.M.B.H.....	Europe-Canada Line
Compagnie Generale Transatlantique.....	French Line
Johnston Warren Lines, Ltd.....	Furness Line
Polish Ocean Lines.....	Gdynia America Line
(Greek Line) - As one member only -	Greek Line
General Steam Navigation Co. Ltd. of Greece	
Transatlantic Shipping Corp.	
Neptunia Shipping Co., S.A.	
Arcadia Steamship Corporation	

Exhibit 1

Agreement No. 120-75

Page 2.

Sioula Oceanica S. A.....	Grimaldi Siosa Lines
Hamburg-Atlantik Linie G.m.b.H.....	Hamburg-Atlantic Line
N.V. Nederlandsch-Amerikaansche Stoomvaart-	
Maatschappij "Holland-Amerika Lijn"	Holland-America Line
Home Lines Inc.....	Home Lines
Inores Steamship Company Ltd.....	Inores Line
"Italia" Societa per Azioni di Navigazione.....	Italian Line
Rhedivial Mail Line, S.A.E., Alexandria, Egypt....	Rhedivial Mail Line
National Hellenic American Line..	
Norddeutscher Lloyd.....	North German Lloyd
Den Norske Amerikalinje A/S, Oslo.....	Norwegian America Line
Maatschappij Zee-transport N.V.....	Orange Line
Compania Transatlantica Espanola, S.A.....	Spanish Line
Aktiebolaget Svenska Amerika Linien.....	Swedish American Line
United States Lines Company.....	United States Lines
Sim Israel Navigation Company Ltd.....	Sim Lines

By:

s/ D. I. KNOWLES

D. I. KNOWLES, Secretary

Trans-Atlantic Passenger Steamship Conference

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Exhibit 1

Copy of
Federal Maritime Board
Conference Agreement No. 120
Approved: February 12, 1929
As amended to December 22, 1958

TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE AGREEMENTConference Membership as of November 6, 1959

Aktiebolaget Svenska Amerika Linien (Swedish American Line)
American Banner Lines, Inc.
American Export Lines, Inc.
Canadian Pacific Railway Company (Canadian Pacific Steamships)
Compagnie Generale Transatlantique (French Line)
Companhia Colonial de Navegacao
Compania Trasatlantica Espanola, S.A. (Spanish Line)
The Cunard Steam-Ship Company Limited
Den Norske Amerikalinje A/S Oslo (Norwegian American Line)
Donaldson Line Limited (Donaldson Line)
Europa-Canada Linie G.m.b.H., Bremen (Europe-Canada Line)
(Greek Line) - Joint Service of
General Steam Navigation Co., Ltd., of Greece
Transatlantic Shipping Corp.
Neptunia Shipping Co., S. A.
Arcadia Steamship Corporation
Hamburg-Atlantik Linie GMBH (Hamburg-Atlantic Line)
Home Lines Inc., (Home Lines)
Inores Steamship Company Ltd.
"Italia" Societa per Azioni di Navigazione (Italian Line)
Johnston Warren Lines, Ltd. (Furness Line)
Khedivial Mail Line, S.A.E., Alexandria, Egypt (Khedivial Mail Line)
National Hellenic American Line, S.A.
Norddeutscher Lloyd, Bremen (North German Lloyd)
N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland -
Amerika Lijn" (Holland-America Line)
Oranje Lijn (Maatschappij Zee-transport) N.V.
Polish Ocean Lines (Gdynia America Line)
Sicula Oceanica S.A. (Grimaldi Sloss Lines)
United States Lines Company (United States Lines)
Zim Israel Navigation Company Ltd. (Zim Lines).

Donald I. Knowles,
Chairman and Secretary
80 Broad Street
New York 4, New York

(Exh. 1)

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Exhibit 1

TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE

GENERAL
AGREEMENT

ADOPTED JANUARY 14, 1929

TRANS-ATLANTIC PASSENGER TRAFFIC
ALL CLASSES
EASTBOUND AND WESTBOUND

MEMBER LINES:

Anchor Line
Anchor-Donaldson Line
Atlantic Transport Line
Baltic-America Line
Canadian Pacific Steamships, Limited
Cosulich Line
Cunard Line
Fabre Line
French Line
Furness Line
Hamburg-American Line
Holland America Line
Leyland Line
Lloyd Sabaudo
National Greek Line
Navigazione Generale Italiana
North German Lloyd
Norwegian America Line
Red Star Line
Royal Mail Steam Packet Company
Scandinavian-American Line
Spanish Royal Mail Line
Swedish American Line
Transatlantica Italiana
United States Lines
White Star Line

ARTICLE A

ORGANIZATION, PURPOSE AND OPERATION

(a) Conference -- The Association of Steamship Lines engaged in trans-Atlantic passenger traffic shall be known as the TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE with headquarters at New York, N. Y., U.S.A.

(b) Purpose -- The purpose of the Conference shall be to coordinate action, harmonize policies, and regulate all matters, other than the fixation of rates.

Exhibit 1

Agreement No. 120

- 2 -

and commission, relating to the operation and enforcement in the United States and Canada of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE (Folkestone, England) Agreement and the rules and regulations adopted thereunder, and generally to promote cooperation between the member Lines for their mutual interest and for the general welfare of their passengers as provided for herein.

(c) Secretary -- There shall be a Secretary who shall be entirely and in every respect independent of any of the Lines and who shall be appointed or dismissed by the unanimous vote of the member Lines. The Secretary shall be the authorized representative of each of the member Lines to receive notice of approval of, and all other official notices and communications pertaining to, this General Agreement. The Secretary's duties shall be as prescribed hereunder and as may be provided for in the rules;

(1) To execute and control the fulfilment of the General Agreement and of the rules adopted thereunder and, in connection therewith, to make periodical examinations of the member Lines' appropriate documents, insofar as he may deem it practicable. In the case of any reported infractions, the report shall be submitted to arbitration.

(2) To act as mediator in general in the transactions between the member Lines themselves, insofar as such transactions appertain to matters relative to the General Agreement or to the rules adopted thereunder, and to make every effort to settle difficulties amicably.

(3) To investigate complaints reported to him of non-observance of the General Agreement or of the rules, for which purpose the member Lines' appropriate documents may be examined at the office of the member Line and/or of the General Passenger Agency or sub-agency concerned, or elsewhere. An independent inspector may be appointed or delegated by the Secretary to investigate such alleged violations.

(d) Managing Committee -- There shall be a Managing Committee consisting of the managerial representatives of four of the member Lines, one of whom shall be selected from the North Atlantic group, one from the Mediterranean group, one from the United States group and one from the Continental group. Each group shall elect its representative and no one shall have more than one representative on the Committee. For the purpose of this paragraph, member Lines shall be classified in the respective groups on the basis of the country of registry of their vessels as follows: North Atlantic group - Great Britain, the Scandinavian countries and Canada; Mediterranean group - countries bordering the Mediterranean, Adriatic and Black Seas, including Portugal, except that as to France only those Lines operating from French Mediterranean ports; United States group - the United States of America; Continental group - any country on the Continent of Europe not otherwise classified herein. For the first Committee two members shall be elected for a one-year term and two members for a two-year term, and thereafter each member shall be elected for a two-year term, but the incumbents thereof may be reelected for such additional terms as the Lines may desire provided that such reelection shall not be for a successive term. Members of the Committee shall serve until their successors are elected. The Committee, by unanimous vote, shall have authority to deal with all

Exhibit 1

Agreement No. 120

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matters relating to the administrative, organizational and financial affairs of the Conference office and Conference staff. The business of the Conference office shall be conducted, under the supervision of this Committee, by the Secretary with the aid of such employees as may be considered necessary.

(e) Committees -- (1) Permanent and temporary committees may be established by the unanimous vote of the member Lines and their duties and the procedure concerning their activities shall be prescribed by such rules and regulations as may be unanimously agreed upon. The findings of such committees shall be recommendatory only, unless otherwise unanimously authorized, and shall be binding on the member Lines only when unanimously agreed upon.

(2) The Committee on Control of Sub-Agencies shall be a permanent Committee. This Committee shall consist of such number of members as may be agreed upon from time to time, at least one of whom shall be a representative of each of the various groups of Lines described in clause (d) of this Article, and shall be vested with full authority to carry out by unanimous vote all of the powers referred to in Article II; clause (c), in any cities and places in the United States which it may designate as Metropolitan Eligible List Territories and in any manner it may deem advisable. This Committee shall have full power to decide which sub-agencies shall be retained and which shall be cancelled. Said Committee shall also be empowered to obtain such information as it requires concerning any sub-agency from any member Line, including the approximate volume of business done, methods of doing business, etc., and any information it may require from sub-agencies.

(f) Meetings -- (1) Meetings shall be held in the manner prescribed by the rules and regulations, at Conference headquarters at New York, N. Y., or at such other place as may be unanimously agreed upon, and shall be presided over by a Chairman to be so designated by the member Lines. All meetings shall be called either at the request of a member Line or on the call of the Chairman.

(2) Items for discussion at regular meetings, i.e., meetings held at stated periods, shall be circulated in time to be received by the member Lines at least five days before the meeting.

(g) Quorum -- A quorum shall consist of the representatives of a majority of the member Lines, but all action must be unanimously agreed upon or subsequently confirmed by all members of the Conference before becoming operative, except as otherwise set forth in this General Agreement. Reference in this Agreement to voting by all or a specified number of the members and to the number or proportion of members constituting a quorum means only those members who are entitled to vote.

(h) Minutes -- (1) Minutes of meetings shall be fully accurately recorded and copies thereof shall be promptly furnished each member Line and the governmental agency charged with the administration of Section 15 of the Shipping Act, 1916, as amended.

(2) Minutes shall be confirmed, or be otherwise commented upon, by the member Lines within ten days (Sundays and legal holidays excepted) of the date on which the minutes are issued, unless a Line especially requests an extension

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thereof for any particular minute, but if no word is received from any particular Line within the time specified, such Line shall be considered to have voted in the affirmative as to confirmation -- except that at a meeting of the Chief Representatives of the member Lines any action agreed upon shall be immediately effective (without any further confirmation) as to all Lines represented at such meeting but shall be subject to the approval of the Lines not so represented.

(i) Maintenance -- The cost of the operation and maintenance of the Conference shall be apportioned among the member Lines on such basis as may be unanimously agreed upon.

(j) Notices -- Any period of notice provided for in the General Agreement or rules shall be given in writing and shall commence on the date of receipt by the Secretary; when circulating said notice, the Secretary shall advise all member Lines of the date on which it was received and also the date on which it expires.

(k) Amendments -- Amendments to this General Agreement may be made provided all member Lines give their written consent thereto, but no such amendment shall be made effective prior to its approval pursuant to Section 15 of the Shipping Act, 1916, as amended.

ARTICLE BJURISDICTION

The jurisdiction of the Conference shall be:

(a) Atlantic Passenger Traffic -- All Atlantic passenger traffic carried by the member Lines, i.e., all passengers travelling in ships owned or operated by the member Lines between:

- (1) All ports on the East Coast of North America (United States, Canada and Newfoundland), also United States Gulf Ports,

and

- (2) All ports of European, Mediterranean, and Black Sea countries, also the ports of Morocco, Madeira and the Azores Islands.

(b) Cruise Traffic -- Passenger transportation on vessels employed for cruises involving a trans-Atlantic voyage, either Eastbound or Westbound, operated by a member Line or for a member Line through charter, from or to ports of the North American Continent, except Mexico, including Newfoundland, sold on the North American Continent, including Newfoundland - only over such matters as may be unanimously agreed upon and/or as may be provided for in separate agreements and provided that no such agreed action shall be made effective prior to its approval pursuant to Section 15 of the Shipping Act, 1916, as amended.

ARTICLE C

MEMBERSHIP

(a) Eligibility -- Any person, firm or corporation engaged or giving satisfactory evidence of intention to engage as a Steamship Line operating a regular service and carrying passengers across the Atlantic Ocean as defined in Article B, may become a party hereto and a member of the Conference upon unanimous consent of the member Lines and by affixing his, their or its signature to a copy of this General Agreement as herein provided. No admission to membership will be effective until advice thereof has been addressed by the Secretary to the governmental agency charged with the administration of Section 15 of the Shipping Act, 1916, as amended. No eligible applicant shall be denied admission to membership as above provided, except for just and reasonable cause.

(b) Application -- Such a Steamship Line, upon becoming a member of the Conference shall agree to abide by the provisions of this General Agreement and of the rules and regulations adopted thereunder, and shall subscribe to the following:

In consideration of our admission to membership in the Trans-Atlantic Passenger Steamship Conference, we hereby subscribe to this General Agreement and agree to abide by its provisions and by the rules and regulations adopted thereunder.

Name of Member Line

Name of Official and Title

(c) Withdrawal -- (1) Period of Notice: Any member Line may at any time terminate its membership in the Conference by giving eight weeks' notice by registered letter to the Secretary. If a member Line, after giving notice of withdrawal, desires either to cancel such notice or to postpone the date on which it is to become effective, then such withdrawal notice may be cancelled, or with the unanimous consent of the member Lines, the effective date thereof may be extended. During the period of notice such member Line shall remain bound by all of the provisions of this General Agreement, and such withdrawal shall not prejudice any accrued obligation.

(2) Discontinuance of Service. In the event that a member Line ceases to exist, or in the case of a member Line which serves notice that it has discontinued, or that it intends to discontinue, the transportation of passengers to or from ports which come within the scope of this Agreement, the effective date for termination of membership shall be the last day of the month following that in which such Line last carried passengers.

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In the event any member Line fails to have a sailing between ports covered by this General Agreement for six consecutive months, its right to vote on any matter within the scope of this Agreement shall be suspended until it resumes service, it being understood that resumption of service shall be construed to mean the public announcement of a sailing between such ports and of readiness to undertake passenger bookings for that sailing; if such failure continues for a further period of six consecutive months its membership shall cease automatically, provided that if failure to maintain such a sailing is occasioned by war, force majeure, direction of a Governmental competent authority, or circumstances beyond a member Line's control, or the employment of its vessels on cruises to or from any port within the scope of this General Agreement, either of the above mentioned periods of six consecutive months may be extended for the period of the continuation of such circumstances, by unanimous consent of the other member Lines. Notice of suspension or restoration of voting rights and cessation of membership or continuation of non-voting membership beyond either of the periods of six consecutive months, shall be promptly furnished to the governmental agency charged with the administration of Section 15 of the United States Shipping Act, 1916.

(3) Membership during period of Notice. A resigning member Line shall not, after serving notice of intention to withdraw, have any vote on any matter which is not to become effective until after the date of its resignation.

(d) Effect of Withdrawal -- The withdrawal of a member Line from the Conference will release the other member Lines from this General Agreement unless the latter agree among themselves to continue thereunder and to abide by the existing rules and regulations, or by such amendments thereto as may be unanimously agreed upon. In the event the General Agreement is continued, notice of such continuation shall be furnished promptly to the governmental agency charged with the administration of Section 15 of the Shipping Act, 1916, as amended; in the event the General Agreement is modified, no such modification shall become effective prior to its approval pursuant to Section 15 of the Shipping Act, 1916, as amended.

(e) Responsibility for Maintenance -- In case a member Line ceases to exist, or is no longer identified with the trans-Atlantic passenger trade, or withdraws from the Conference, the financial responsibility of that Line shall continue for all Conference expenses under this General Agreement contracted for prior to such action, but shall cease as to any expenses contracted for after the date when the termination of membership becomes effective. In no event shall a Line terminating its membership in the Conference during a given fiscal year be entitled to the refund of any part of the amount apportioned to, and paid by, said Line to cover the cost of operation and maintenance of the Conference under Article A, clause (1) of this agreement for the fiscal year involved.

(f) Membership Groups -- (1) For the purpose of paragraph 3 hereunder the member Lines shall be classified in two groups, viz: the North Atlantic Group and the Mediterranean Group. They shall have the right to become members of either or both of these groups after they have maintained a regular service for six consecutive months in either or both of the under-noted areas:

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(A) North Atlantic Group

Between:

All ports on the East Coast of North America
(United States, Canada and Newfoundland), also
United States Gulf Ports,

and

All European ports North of Lisbon (exclusive).

(B) Mediterranean Group

Between:

All ports on the East Coast of North America
(United States, Canada and Newfoundland), also
United States Gulf Ports,

and

Lisbon and all Portuguese and Spanish ports south
thereof, also all ports on the African Coast as
far South as Casablanca(inclusive), Madeira and
the Azores, all ports on the Mediterranean,
Adriatic and Black Seas and waters adjacent,
affluent and tributary thereto.

(2) The Secretary will prepare and circulate to the member Lines a list of the members of each group as and when they qualify for admission under paragraph (1) above. A corrected list will be published as modifications made necessary by additions or deletions occur. The Secretary will also transmit promptly to the governmental agency charged with the administration of Section 15 of the U. S. Shipping Act 1916, as amended, copies of any such notices promulgated to the member Lines.

(3) If, in the unanimous opinion of the members of either group, conditions have arisen which make it desirable that the two groups should operate in separate conferences, each member of the group (which must consist of at least two member Lines) so deciding shall notify the Secretary in writing. The separation of the two groups shall become effective eight weeks after the date on which the last notification is received by the Secretary.

(4) If a member Line which is party to both groups fails without reasonable cause to have a sailing in the geographical area of one group for a period of six consecutive months it shall automatically lose its right under paragraph (3) to a vote in the group.

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(5) In the event of separation under paragraph (3) the scope of the agreement for the North Atlantic group shall be as defined under paragraph (1) (A) and for the Mediterranean Group as defined under paragraph (1) (B). Provided, however, no such separation of the two groups shall become effective unless and until an appropriate modification of this agreement has been filed with and approved by the United States Maritime Commission pursuant to Section 15 of the Shipping Act, 1916, as amended.

(g) Conference Agreements with Non-member Lines -- Any Steamship Line becoming a member of the Conference shall upon written notice to the governmental agency charged with the administration of Section 15 of the Shipping Act, 1916, as amended, thereby become a party to, and any Steamship Line withdrawing from Conference membership shall thereby cease to be a party to, any agreements between the member Lines of the Conference (entered into by said member Lines in their capacity as Conference members), and any other Steamship Line or other person subject to the Shipping Act, 1916, as amended, provided said agreements are filed and approved pursuant to the provisions of said Act and contain specific provisions for such admission to or withdrawal from participation therein.

(h) Associate Membership -- (1) By the unanimous vote of the member Lines any Steamship Line which, within the scope of this Agreement, operates only freight ships whose normal passenger capacity is not more than twelve, or who furnishes evidence of ability and intention in good faith to so operate, may become an Associate Member of the Trans-Atlantic Passenger Steamship Conference on the under-noted conditions. In no instance shall admission to Associate Membership be denied except for just and reasonable cause and any such admission shall not become effective until advice thereof has been addressed by the Secretary to the governmental agency charged with the administration of Section 15 of the United States Shipping Act, 1916, as amended. Every application for admission to Associate Membership shall be acted upon promptly, and prompt advice of any denial of admission to Associate Membership, together with a full and complete statement of the reasons therefor, will be furnished the aforementioned governmental agency by the Secretary.

(2) An Associate Member as defined above shall: (i) Adopt no designation other than "First Class" or "One Class" for the passenger accommodation of all such freight ships.

(ii) Quote for each of its ships not less than the rates established for freight ships of similar type under the ATLANTIC PASSENGER STEAMSHIP CONFERENCE Agreement.

(iii) Alter its rates to correspond with any increase in rates made at any time for the ships of the member Lines in order to retain the established relationship between its ships and those of the member Lines.

(iv) Comply with the stipulation of Article 5 of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE Agreement relating to Free or Reduced Rate Passages.

(v) Pay not in excess of the scale of agency commission paid for First Class or One Class accommodation on ships of the member Lines.

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(vi) Alter its scale of commission to correspond with any changes in the scale of commission made at any time by the member Lines of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE so as not to pay in excess of such revised scale.

(vii) Accept and abide by any rules by which the member Lines are governed in the appointment or cancellation of sub-agencies and the rules governing their activities in any territory within the scope of this Agreement and have the right to appoint any sub-agent in any of such territories already appointed by one or more of the member Lines.

(viii) Report to the Secretary particulars of passenger carryings in accordance with such rules as may be adopted by the member Lines.

(ix) Pay annually to the Trans-Atlantic Passenger Steamship Conference, as a contribution to the cost of its operation and maintenance, a minimum sum to be established.

(3) Any dispute arising in respect of the observance of these conditions shall be referred to an arbitrator selected by agreement between the parties concerned from the Chief Representatives of the member or Associate Member Lines for settlement. The decision of the arbitrator to be final and binding.

(4) None of the provisions of the Trans-Atlantic Passenger Steamship Conference agreement other than those contained or specifically referred to in this clause (h) shall apply to Associate Members.

(5) Associate Membership may be terminated by an Associate Member or by the member Lines at any time on giving eight weeks' notice by registered letter through the Secretary, provided, however, that the Conference shall not terminate an Associate Membership except for just and reasonable cause. Prompt advice of any termination of Associate Membership, together with a full and complete statement of the reasons therefor in instances where such termination is effected by the member Lines, will be furnished the governmental agency charged with the administration of Section 15 of the United States Shipping Act, 1916, as amended, by the Secretary.

(6) With reference to paragraph (2) (ii) above, the rates to be applied by Associate Members of the Trans-Atlantic Passenger Steamship Conference are to be negotiated through the Secretary of that Conference, but such negotiated rates shall not become effective until they have been approved by the ATLANTIC PASSENGER STEAMSHIP CONFERENCE.

ARTICLE D

PASSAGE FARES AND RATES OF COMMISSION

Passage Fares and Rates of Commission -- Passage fares and rates of commission and all conditions relating thereto, shall be in accordance with the provisions of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE Agreement and the rules and regulations adopted thereunder. All published fares or charges and all rules

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and regulations governing their application, and additions thereto and changes therein, applicable to or in connection with the transportation of passengers under this General Agreement, to or from United States ports, shall be furnished promptly to the governmental agency charged with the administration of the Shipping Act, 1916, as amended.

ARTICLE IIAGENCIES

(a) The member Lines shall confine the sale of their transportation to:

(1) Line's Own Offices -- i.e., public offices owned or rented, with staffs salaried or controlled by the Line. Such offices may be established at any place.

(2) General Passenger Agencies -- i.e., agencies appointed by a Line on a commission basis to control a specified territory in which sub-agencies are appointed who must report to such agencies. These agencies may be established by any Line at any place in which any other member Line maintains its own offices or at such other place as may be unanimously agreed upon.

(3) Sub-agencies -- i.e., agencies appointed by a Line on a commission basis for the sale of its passenger transportation. The number of such agencies shall be limited, reduced or increased, with due regard to the requirements of the traffic in such localities and on such bases as may be unanimously agreed upon. The member Lines in order to protect the public and to safeguard their own joint and several interests, shall adopt such rules and regulations as may be unanimously agreed upon to control the conditions of appointment and of cancellation of such agencies, the location of their offices and the scope of their activities, and to govern the relationship of the member Lines, jointly and severally, to such agencies. Such rules and regulations may include provisions for the payment of fees by and the bonding of agencies, the method of sale of passage tickets and orders and the prompt remittance of the proceeds thereof, the keeping and auditing of appropriate records and accounts, the return of unsold tickets and orders upon demand, the restriction of the agency relationship to member Lines only insofar as competitive non-member Lines are concerned, the control of the places and the addresses where the business of the agency may be transacted, the standards to be maintained in order to retain an agency including the minimum amount of business required to be transacted, the standards for advertising the sale of passage tickets, and any other matters relating to the conduct, maintenance and termination of the agency relationship. Violation of any such rule or regulation or default in the performance of any provision thereof by an agency with respect to any one or more of the member Lines shall be deemed, if unanimously agreed upon, to have disqualified such agency as to all member Lines and the appointment of such agency shall then be cancelled and withdrawn simultaneously by all member Lines.

(4) Airlines -- i.e., an airline having arrangements with a member Line for the interchange on a commission basis of trans-Atlantic passenger traffic on tickets or exchange orders issued by or transferred from such airline.

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(b) General Passenger Agencies

(1) Territory -- (i) A member Line shall not establish more than one General Agency at any General Agency city, whether the Line maintains more than one regular service or has affiliated with it one or more Lines and/or services.

(ii) A list of the cities that shall be recognized as General Agency cities shall be maintained by the Secretary and shall be promulgated by him to all member Lines.

(iii) The territory assigned to each General Agency shall be clearly defined and particulars thereof filed with the Secretary for promulgation to all member Lines. When a city now recorded as a General Agency point ceases to have any General Agency located there, such city shall automatically be eliminated from the list.

(iv) The mere stationing of a member Line's salaried employee at any place as a solicitor, to whom sub-agencies do not report, shall not classify such place as a General Agency city. Any such employee's name and address shall be filed with the Secretary.

(2) Control of General Agencies -- (i) A General Agency of one member Line may represent another member Line or Lines as General Agency, with the consent of the member Line or Lines for which it acts as General Agency.

(ii) No agent receiving General Agent's commission from any member Line or Lines shall be permitted also to act as sub-agent for any other member Line -- except a Port Agent at a seaport who also acts as a General Agent.

The Secretary shall file with the Secretary of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE, from time to time as agreed, the exceptions in the United States and Canada to the foregoing Rule.

(iii) A General Agency shall not be permitted, directly or indirectly, to do business or to offer to pay commission in territory outside of its jurisdiction.

(iv) A General Agency (which is not a member Line's Own Office) shall not be maintained by any member Line in addition to its Head Office in New York City or within a radius of fifty (50) miles from Columbus Circle, New York City, the intention being that no sub-agency within this territory shall receive more than the authorized sub-agency commission or do business except with the Head Office of the member Line it represents.

(c) Eligible Lists for Certain Metropolitan Territories -- (1) In order to meet the joint and several needs and requirements of the member Lines for adequate and economical facilities for the sale of passenger transportation in certain Metropolitan territories throughout the United States, and in order to provide for

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the protection of the travelling public from exploitation and from undue and harassing solicitation by unauthorized persons, the member Lines may jointly establish a list of names of all persons, firms and corporations eligible for appointment as their sub-agencies in any such territory, which list shall be known as the "Metropolitan Eligible List." Only such persons, firms or corporations whose names appear on said list may be appointed as sub-agency in said territory by any member Line. Said list may be revised from time to time, and the number of names thereon may be decreased or increased, either by the unanimous agreement of all member Lines or by a special committee, to be appointed by and to be representative of such Lines, vested with full power to make such revision in behalf of all member Lines. In revising said list, the member Lines or the special committee, as the case may be, may remove any name therefrom or add any name thereto; they may remove any name from said list for such reasons as the violation of any rule governing the activities of sub-agencies, the maintenance of unethical or unsatisfactory business standards in the conduct of the agency business, inability adequately to create and stimulate the sale of passenger transportation, failure to effect the sale of a sufficient number of passage tickets to warrant the continuance of the agency, and any other reasons that appear to be good and sufficient to all member Lines or to the special committee referred to, as the case may be. Any sub-agency whose name is at any time so removed from said list shall, upon the circulation of said list as revised from time to time among the member Lines, be immediately cancelled and withdrawn by all member Lines represented by said agency.

(2) Any application for a change of address or of name of any sub-agency located in any Metropolitan Eligible List territory shall be referred to the Committee on Control of Sub-Agencies with full power to grant or decline such application in behalf of all member Lines.

(d) Joint List of all Sub-Agencies in North America -- Each member Line shall file with the Secretary complete lists of all its ticket-holding and non-ticket-holding sub-agencies in North America, which lists may be used by the Secretary for mailing joint circulars, tariffs, etc., and for any other purpose that may be unanimously agreed upon. The Secretary shall prepare a composite joint list which shall be kept up-to-date and all additional appointments or any cancellations shall be furnished to him by each member Line semi-monthly, as they occur, on forms to be supplied by him.

(e) Sub-agencies Selling Tickets for Non-Member Lines -- A sub-agency shall be prohibited from selling passage tickets for any steamer not connected with the fleets of the member Lines for which it has been duly appointed or from representing in any capacity any steamship company operating such a steamer, if such steamer is operating in any competitive trans-Atlantic trade (unless written permission to do so is first obtained from the member Lines), or acting or representing itself as agency for, or as entitled to do business with, any member Line it does not represent by regular appointment. This rule shall not prevent any sub-agent from booking for any United States Government Line.

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Rule E-2 SUB-AGENCIES(a) Sub-Agency Appointment Agreement

All member Lines unanimously agree that the following uniform "Sub-Agency Appointment Agreement", to be known as "Rule E-2(a)", shall be used by each of them to establish the contractual relationship between any member Line and all of its duly authorized agencies appointed on a commission basis for the sale of its passenger transportation:

I (we) hereby apply for a sub-agency of _____

(Name of Steamship Co.)

to be located at _____

(Street and Number)

(City or Town)

(State)

and in the event of my appointment, or reappointment and in consideration thereof, agree to adhere to and comply with all the instructions from and the annexed rules (Conference Agreement No. 120-2-1) governing the activities of sub-agencies of said Steamship Company, and which I (we) have read and hereby agree to, and all additional or supplemental rules for or requirements of sub-agencies hereafter issued by said Steamship Company, including any special instructions applying to any particular case or circumstances, and I (we) also agree to hold in trust for said Steamship Company any steamship passage tickets and orders, railroad tickets and orders, money orders, drafts, travelers' checks or other documents and forms supplied to me (us) for sale, and to sell the same only at the rates quoted by said Steamship Company, and when any of such documents or forms are sold I (we) agree to keep and hold the proceeds of sale and also any deposits made on account of any sales and any other funds received or collected for the account of said Steamship Company, whether or not the same have been deposited in a bank, in trust and entirely separate and apart from any and all other funds and moneys in my (our) hands, and to remit such proceeds of sale to said Steamship Company immediately after each sale, and all deposits and other funds immediately after their receipt; and I (we) further agree to return to said Steamship Company upon demand all of its unsold tickets, orders and other documents and forms and also any certificate or other written authorization of agency appointment issued to me (us).

I (we) further agree that the relationship set up between me (us) and said Steamship Company is not that of debtor and creditor but of trustee and beneficiary, and that all funds derived from the sale of said Steamship Company's tickets, orders and other documents or forms, and also any deposits and any other funds received or collected for the account of said Steamship Company, are said Steamship Company's property and do not belong to me (us).

In consideration of the granting of this sub-agency, I (we) not only represent and warrant that I (we) shall at all times safeguard and protect the property and money of said Steamship Company in the manner aforesaid, but I (we) add my (our) personal indemnity to said Steamship Company for any loss which may be sustained by it for any of the causes hereinafter mentioned in this paragraph, apart from and in addition to any and all rights and remedies hereunder which

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said Steamship Company has by virtue of the creation of the aforesaid trust relationship, and to that end I (we) further agree to accept responsibility and liability for each steamship passage ticket and order, railroad ticket and order, deposit receipt, money order, drafts, traveler's check or other document or form delivered to me (us) and for all funds and moneys received by me (us) as proceeds of sale of any of such documents or forms, or as deposits or for the account of said Steamship Company, and to indemnify and save the said Steamship Company harmless from loss for such documents and forms and for such proceeds of sale deposits and funds whether or not the same have been deposited in a bank and whether such loss is occasioned by forgery, burglary or theft or by the insolvency of either a purchaser of such documents or forms or of a bank in which I (we) may have deposited such proceeds of sale, deposits or funds (notwithstanding the fact that under the terms of this trust agreement such bank deposits are the property of said Steamship Company and not my (our) property), or by any other act or condition whatsoever.

I (we) further agree not to transfer or sell the sub-agency appointment of said Steamship Company or to change the name or the address of the sub-agency without the prior written consent of said Steamship Company and to report without delay any change that may affect my (our) sub-agency.

I (we) further agree that under any plan for the bonding of the sub-agency and/or for the payment of a fee by the sub-agency which said Steamship Company may arrange this appointment shall not become nor remain effective unless and until any forms necessary or any acts required of me (us) in connection with such bonding and/or sub-agency fee arrangements have been executed or performed by me (us) and are acceptable to said Steamship Company.

No modification of the terms of this Trust Agreement shall be effective unless made in writing and signed by both parties.

I (we) further agree that if this application for appointment as a sub-agency is granted, said appointment may be withdrawn by said Steamship Company at any time after ten days from the date hereof and without previous notice, and shall in any event expire not later than April 15, 19 , unless prior to such expiration said Steamship Company shall, in writing, renew my (our) appointment for a further period of one year under the same or under other terms and conditions, and thereafter from year to year in the same manner, no appointment being effective for a longer period than until the fifteenth day of April next after the date of such appointment unless a contrary intention is clearly and affirmatively expressed on the face of the written renewal of such appointment.

Any failure by said Steamship Company to avail itself of or act upon any default on my (our) part for any of my (our) acts or omissions in violation of the terms and conditions hereof, unless agreed to in writing by said Steamship Company, shall not be deemed a waiver by said Steamship Company, nor a general waiver of any such acts or omissions; and a waiver by said Steamship Company in respect of one or any number of acts or omissions by me (us) shall not be deemed to operate as a relinquishment of any rights against me (us) or a waiver in respect of any acts or omissions by me (us) subsequently occurring.

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(Witness of Applicant's Signature)	(Name of Applicant)
(Full Address)	By
(Date)	(Title)
	(Date)

The above application for a sub-agency of the Steamship Company named below is hereby approved, subject to all of the terms and conditions referred to therein, including the rules thereto annexed.

	(Name of Line)
(Date)	By

(b) Rules Governing the Activities of Sub-Agencies in North America

All member Lines unanimously agree that the following uniform "Rules Governing the Activities of Sub-Agencies in North America", to be known as "Rule 2-2-(b)", shall govern the relationship of the member Lines, jointly and severally, to all duly authorized agencies appointed by each of them on a commission basis for the sale of ocean transportation (all of which Rules all such sub-agencies shall be required to comply with), and shall control the conditions of appointment and of cancellation of all such agencies by all member Lines, and the scope of the activities of all such agencies:

Rules Governing the Activities of Sub-Agencies in North America

adopted by the Steamship Lines, members of the Trans-Atlantic Passenger Steamship Conference.

These Rules cover the services of each of the member Lines and relate to all classes of bookings. They must be strictly complied with in the spirit as well as the letter, and a violation of any Rule or default in the performance of any provision thereof, with respect to any one of such Lines, may result in the cancellation of the agency by all of such Lines which it represents.

1. Definition of Agent

The term "agent", wherever mentioned in these Rules, means an individual, firm or corporation employed by the Line, either directly or through its General Agent, as a sub-agent for the sale of steamship passage tickets and/or orders and/or railroad tickets and/or orders and/or money orders, drafts or travelers' checks, and/or other documents or forms, and for no other purpose for the Line.

2. Definition of Line

The term "the Line", wherever mentioned in these Rules, means the particular Steamship Company, member of the Trans-Atlantic Passenger Steamship Conference, represented by the agent under a prescribed written form of authorization to act as such agent for said Steamship Company.

3. Responsibility of Agent

The agent is responsible to the Line for all business transacted in its behalf whether conducted by him or by any other person in his name.

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4. Agency Address

The agent must transact the business of the agency only at the address and in the office at which it has been duly authorized. The agent must not offer or place or allow others to offer or place the Line's passage tickets and orders, railroad tickets and orders, money orders, drafts, travelers' checks, or other documents or forms so held in trust, for sale at any address outside of his own authorized office; nor shall he sell such tickets, orders or other documents, to, or offer to sell through or have any business dealings with, disqualified agents, peddlers, porters, runners or other unauthorized persons endeavoring to engage in or become associated with the steamship ticket business. The agent must not employ for the sale of such tickets, orders, or other documents, or forms, or for the solicitation of the Line's business, in any particular, any person not regularly employed on his staff.

The agent must not employ a disqualified agent who has at any time been in default to any of the member Lines, or any person previously connected with such a disqualified agent until, and unless authority for such employment has been secured from the Line.

5. Lines Represented

The agent is prohibited from booking passengers for any steamer not connected with the fleets of any of the member Lines which is operated in a trans-Atlantic service competitive with such Lines, or from representing in any capacity any steamship company operating a steamer in such a competitive service, unless written permission to do so is first obtained from such Lines through the Secretary of the Trans-Atlantic Passenger Steamship Conference. He is also prohibited from selling passage tickets, orders or similar documents so held in trust, under false representations as to the Line, vessel, or route by which a passenger is to be transported.

The agent is prohibited from acting or advertising himself as agent for, or as entitled to do business for any of the member Lines he does not represent by direct appointment; nor may he sell to another agent for any of the member Lines tickets, orders or similar documents, held in trust by him, of a line which such other agent does not represent.

6. Tickets, Proceeds, etc., Held in Trust

The agent must hold in trust for the Line all tickets, orders, deposit receipts, money orders, drafts, travelers' checks, and other documents or forms delivered to him by such Line, together with the proceeds of sale thereof, deposits, and any other funds received or collected for the account of said Line, and such proceeds deposits and funds shall be kept separate and apart from all other funds and moneys in his hands.

7. Issue of the Line's Tickets, etc., Only

A ticket-holding agent must not hold nor accept for sale any ticket, deposit receipt, order or other documents or forms not supplied to him by the Line. He shall not issue orders, passage contracts or tickets of his own or those of any other individual, firm or corporation, other than the Line, nor shall he issue orders, passage contracts or tickets on private correspondents, firms,

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or corporations, wherever located, for outward, round-trip or prepaid ocean transportation.

A ticket-holding agent not supplied by the Line with its deposit receipts may use his own form of deposit receipt and a non-ticket-holding agent may also use his own form of deposit receipt in both instances, such deposit receipts must be consecutively numbered and must show the name of the Line steamer and date of sailing for which issued and must be written in triplicate, one copy of which must be sent to the Line with the remittance.

8. Adherence to Authorized Rates

The agent must sell tickets, orders, money orders, drafts, travelers' checks, documents or forms so held in trust only at the authorized rates then obtaining, in accordance with circular announcements issued from time to time by the Line, and must not at any time quote any rates not so authorized.

9. Securing of Accommodation

A passage ticket, order or similar document so held in trust must not be issued for specific accommodations, without first securing the reservation thereof from the Line.

10. Passage Money, etc., to be Shown on Tickets, etc.

The amount received for passage money, the date of issuance, the place of sale, and the correct and full name and address of the agency, must always be noted on the passage ticket, order or similar document.

11. Remittances

Advices of all sales of any of the Line's documents or forms so held in trust and/or of all reservations of accommodations, accompanied by remittances of the proceeds of sale, or deposits or part payments collected on reservations for Eastbound and/or Westbound passages, regardless of date of sailing, and so held in trust, must be forwarded on the day of sale (deposits on the day of receipt) to the office of the Line to which reports and remittances are required to be sent. For the purpose of verifying adherence to this requirement, the books, records and other documents of the agent will be subject to examination periodically by an auditor nominated by the Line or by the Trans-Atlantic Passenger Steamship Conference.

Any violation of this requirement with respect to any one of the member Lines will result in the cancellation of the agency of all of such Lines which it represents.

12. Booking Points

The agent must sell passage tickets, orders, or similar documents so held in trust only to or from such booking points as are designated in the published tariff of the Line, at the quoted rates, but not between any other points. Third class prepaid passengers must be booked through to final destination only on such forms as may be authorized by the Line.

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13. Payment of Commission

The basis of commission is in accordance with circular announcements issued from time to time by the Line. Only an individual, firm, or corporation employed by the Line as its agent, and so duly authorized by it in writing, is entitled to the authorized commission.

Commission is paid only upon the actual issuance of the ticket, order or similar document so held in trust and the direct receipt by the agent of the full proceeds of sale thereof. Commission is not paid on letters or cards of introduction.

(NOTE: Commission may be paid to an agent who has collected the initial payment (deposit) for a passage ticket although the ticket is subsequently issued at the Line's Office.

Commission may not be deducted from a deposit (initial payment) but is paid to the agent upon completion of the sale whether the balance of the passage money is collected by the agent or by the Line's office and the passage ticket issued there.

Commission is not payable to an agent if a Line has collected the initial payment (deposit) for passage and the ticket is subsequently issued by the agent and the balance of the passage money paid to him.)

14. Commissions not to be Divided

The agent alone is entitled to the full amount of commission allowed, by the Line upon each sale. He must not promise or hold out any improper inducements, expressed or implied, of paying any portion of the commission allowed to purchasers or prospective purchasers of tickets, orders or similar documents, or to passengers or to any other persons, by letter, circular, newspaper advertisement or otherwise.

All rebates, drawbacks, discounts, credits, commissions, presents, prizes, or allowances of any description whatsoever made or offered to be made to a purchaser, prospective purchaser, passenger, or to any other person, with a view to influencing the sale of a ticket, order or similar document are strictly prohibited.

15. Telegraph or Telephone Charges

The agent must prepay all telegraph or telephone charges when communicating with the Line and the Line will prepay the reply.

16. Agent in Default

The agent who is at any time in default to any of the member Lines will be immediately disqualified and his agency will be promptly cancelled by all of

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the member Lines. When a firm is disqualified, each member thereof, and when a corporation is disqualified, each officer thereof, is also disqualified.

The agent, immediately upon disqualification, is prohibited from selling tickets, orders or other documents or forms, or from transacting any other business of the agency at his office or residence or at any other place or address, and must surrender immediately all tickets, orders and other documents or forms held in trust by him.

When the agent is disqualified, the sale of passage tickets, orders or other documents or forms of or for any of the member Lines is thereby prohibited.

17. Advertising

(a) Announcements

The term advertising means announcements, etc., by poster, booklets, circulars, printed matter, hand-bills, newspaper, magazine or periodical advertising, paid reading notices, radio, etc., or other paid public form of announcement in regard to the steamship business.

(b) Unfavorable Comparisons

No statements shall be made which reflect upon or institute unfavorable comparisons as between any of the member Lines or their steamers.

(c) Statements of Fact

Advertising expressions shall be limited to statements of fact, and must avoid any appearance of being misleading.

(d) Use of Superlatives, etc.

All advertisements shall conform to truth and good taste, and superlatives that are debatable must not be used in advertising matter.

(e) Steamer Blocks and Cuts

No steamer blocks or cuts may be utilized unless the steamer depicted is employed or to be employed in an advertised service of the Line. For general advertisements, circulars, pamphlets, etc., advertising the fleet or services generally of the Line, the steamer block or cut of any vessel employed or to be employed by the Line may be utilized, but for special announcement or advertisements for a particular steamer or voyage, no steamer block or cut may be utilized, except that depicting the vessel or vessels advertised.

The agent is not permitted to use the steamer block or cut of a vessel of any Line which he does not represent.

(f) Tonnage

All references to tonnage must refer to "gross registered tonnage." It is not permissible to advertise displacement tonnage unless the gross registered tonnage is simultaneously shown in the same characters. In newspaper advertisements, the agent must confine references to tonnage to the gross registered tonnage, and no particulars will be included in such advertisements of the steamers' displacement tonnages.

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(g) Class of Accommodation

The several classes of passenger accommodation shall be designated by the following expressions only:

First Class
One Class
Cabin
Tourist

Equivalent expressions in the different languages may be utilized.

(h) Rates

All advertised or otherwise offered rates of trans-Atlantic traffic shall:

- (1) Include the name of the line,
- (2) State the destination, if other than a port, and
- (3) Indicate the class of ocean accommodation.

(j) Revision of Rates

A revision of rates must not be advertised or be given publicity unless on written authority of the line.

(k) Printed Matter

All printed matter pertaining to sailings and rates shall show the date and place of issue.

(m) Bill-Boards and Signs

Bill posting, painted, electric and other signs must be restricted at all places to the immediate premises of the agent.

(n) Designation of Agency

The agent may represent himself only as an "Agent" or "Sub-Agent", but not as a "General Agent", "General Passenger Agent", "General Steamship Agent", "Special Agent", or similar designation, on letter heads, office signs or otherwise.

(o) Agent's Responsibility

Any agent publishing an advertisement which is in violation of these Rules will be held liable therefor by the line.

18. Erroneous or Misleading Statements

The agent is prohibited from issuing any erroneous or misleading statement to the effect that any of the member lines or any of their agents is following practices that are contrary to these Rules or has offered to enter into such practices with said agent or otherwise.

19. Books Open for Inspection

The agent must keep appropriate accounts of all transactions relating to the agency, currently to date. His office premises may be visited at any time and all the books, records and documents in relation to the agency representation

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shall be open to inspection by the Line or by a duly authorized representative of the Trans-Atlantic Passenger Steamship Conference.

20. Adequate Amount of Business to be Transacted

The agent must endeavor to create and stimulate the sale of passenger transportation and must transact a sufficient amount of business to justify the costs and responsibilities incurred by the Line and by such other of member Lines he represents in retaining the agency; the failure or inability to produce an amount of business sufficient, in the opinion of such Lines, to justify the continuance of the agency may result in its termination by all such Lines.

21. Maintenance of Ethical Business Standards

The agent must at all times maintain ethical standards of business in the conduct of his agency and in his dealings with passengers, purchasers of tickets, orders or other documents or forms so held in trust, and with each of the member Lines he represents.

22. Report of Violation of Rules

The agent is not justified in violating any of these Rules on the ground that some other agent is, or may be, doing so. It is the duty of the agent to report to any of the member Lines he represents or to the Trans-Atlantic Passenger Steamship Conference, any violations thereof that may come to his knowledge, together with all facts and substantiating evidence.

23. Violation of Rules

When in the judgment of the member Lines, the agent has violated or has failed to comply with or adhere to any of these Rules or any additional or supplemental Rules, with respect to any of such Lines, the agency may be withdrawn and cancelled by all such Lines or damages may be imposed against such agency. The amount imposed in the form of liquidated damages, shall not be more than \$1,000, for each infringement; if the agent fails to pay the amount of such damages within the time specified in a written notice mailed to him by the Secretary of the Trans-Atlantic Passenger Steamship Conference, he shall be immediately disqualified from acting in any capacity for any of the member Lines.

24. Termination of Agency

Either the Line or the agent may terminate the agency at any time.

25. Adherence to Rules

The agent agrees to adhere to and comply with these and such additional and/or supplemental Rules as may be announced from time to time by the Line, which in any way relate to or govern the activities or the business of the agency.

ARTICLE F

ADVERTISING

(a) Advertising Statements, etc., -- All advertising by member Lines shall be limited to statements of fact, shall conform to truth and good taste,

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shall avoid any appearance of being misleading, and shall not make use of superlatives that are debatable, in conformity with such rules for the guidance of member Lines, their General Passenger Agents and sub-agents as may be unanimously agreed upon.

(b) Advertising Restrictions, etc. -- The member Lines shall adopt such rules as may be unanimously agreed upon to guide them in their advertising generally, and to safeguard their own joint and several interests by avoiding wasteful and uneconomic competitive advertising. Such rules may: (1) limit the size of advertisements in certain types of newspapers, magazines or other publications; (2) prohibit advertising, or limit the size of advertisements, in publications in which sub-agencies have a direct or indirect interest or which are distributed primarily by or through sub-agents or which circulate in a field already sufficiently covered by the Lines' own printed matter, and/or (3) control, restrict and limit advertising in foreign language, religious, fraternal, college or similar periodicals, programs, year-books, circulars, almanacs, etc., or in special publications issued by religious, charitable, educational and similar organizations, or by means of bill-boards, signs, handbills, posters, folders, novelties, calendars and/or with respect to any other form or method of advertising in which the member Lines unanimously agree such action is necessary or desirable.

ARTICLE GARBITRATION

All member Lines agree that any dispute, complaint and/or claim between any of them, or between any one or more of them and the rest of them, arising under this Agreement shall be settled by arbitration.

(a) Complaints -- Complaints relating to alleged violations of the General Agreement or of the rules or minutes adopted thereunder, committed on the North American Continent, and also claims for damages incurred thereby, must be filed in writing by the complaining member Line with the Secretary, and shall state in detail the nature and also particulars of the dispute, complaint and/or claim. Such communications shall as to any member Line be deemed properly served if sent by post prepaid in a registered letter to the office of the Secretary. The Secretary on receipt of a complaint and/or claim shall promulgate same simultaneously to all member Lines.

(b) Reply and Counter-Statement -- (1) The member Line or Lines complained of shall be required to file with the Secretary within fourteen days, a reply to the allegations made, which reply, or replies, shall be promulgated simultaneously by the Secretary to all member Lines.

(2) The member Line preferring the complaint or claim may, if it so wishes, submit a counter-statement to the reply of the member Line or Lines complained of, but such counter-statement must be filed with the Secretary within ten days after the receipt of the reply of the member Line complained of. Notice of intention to lodge such counter-statement must be communicated by letter or telegraph to the Secretary by the complaining member Line within three days after

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receipt of the reply of the member Line complained of.

(c) Withdrawal of Complaint -- Should the complaining member Line, after receiving the reply of the member Line complained of, not wish to pursue further the complaint and/or claim, it must so notify the Secretary immediately by letter or telegraph, so that further arbitration proceedings may be abandoned.

(d) Investigation by Secretary -- (1) In the absence of advice from the complaining member Line that the complaint and/or claim is to be withdrawn, the Secretary, after allowing due time to permit of the receipt of a counter-statement as referred to under clause (b) above, shall immediately transmit to the Court of Arbitrators, as provided in clause (f) hereunder, the several statements in his possession.

(2) The Arbitrators so appointed may, if they so desire, call for further statements from the member Lines at issue; the complaining member Line, the member Line complained of, and/or the Arbitrators may also request the Secretary to investigate the complaint and/or claim, such investigation to be carried out at the point where the complaint originated, to elsewhere, as may be considered necessary.

(3) The result of the Secretary's investigations shall be communicated by him in writing to the Arbitrators, and, if the latter so desire, the Secretary shall appear before them to submit any further information they may desire.

(4) The evidence so submitted by the Secretary shall not be communicated to the member Lines except at the discretion of the Arbitrators, and then only when they are making their award.

(5) The member Line, General Passenger Agency, or sub-agency against which the complaint or claim is preferred, shall afford the Secretary every facility for carrying out such investigation as he may be called upon to make.

(e) Cooperation of Other Member Lines -- Any member Line may associate itself with the complaints or claims that may be lodged and may submit evidence supporting the statement of the complaining member Line or the statement of the member Line complained of.

(f) Appointment of Arbitrators -- The Court of Arbitrators referred to in clause (d) above, shall consist of two representatives of the member Lines, drawn by lot by the Secretary from a panel of Arbitrators to be established hereunder, but the representatives of the complaining member Line or Lines and the member Line or Lines complained of, shall not be included.

(g) Appointment of Umpire -- (1) In the event the two Arbitrators so appointed are unable to reach a unanimous decision on the complaint and/or claim before them they shall have the power to select an Umpire, whose vote shall determine the finding of the Court of Arbitrators.

(2) The Umpire shall be selected by the Arbitrators so appointed from the Panel of Arbitrators referred to in clause (f) above, but representatives of the complaining member Line or Lines, and the member Line or Lines complained of, shall not be included.

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(h) Time of Rendering Award -- The decision of the Arbitrators shall be communicated in writing to the Secretary within the following periods of time from the date on which statements are filed, or, if a counter-statement is filed, from the date of its filing with the Court of Arbitrators:

(1) Within ten (10) days, if no investigation on the part of the Secretary is called for by the Arbitrators and if a unanimous decision on the part of the two Arbitrators appointed can be reached without the intervention of an Umpire.

(2) Within fourteen (14) days, if the intervention of an Umpire is called for, but if no investigation on the part of the Secretary is required by the Arbitrators and/or the Umpire.

(3) Within sixty (60) days, if an investigation on the part of the Secretary is called for by the Arbitrators and/or the Umpire.

The decision of the Arbitrators shall be promulgated simultaneously to all member Lines.

(j) Award of Damages -- (1) The Arbitrators shall have discretion to award damages against the Line complained of. In the event that damages are awarded, the amount for any violation shall not be more than \$5,000 for each violation on the part of a member Line. Where a member Line is not represented in the United States or Canada by its own office, the General Representative of that member Line shall be regarded as the member Line.

(2) The Arbitrators shall take into consideration whether from the circumstances disclosed, it appears that proved violations are isolated offences or incidents in a systematic violation, and shall impose damages accordingly.

(3) For a violation of any rule by any General Passenger Agency or sub-agency, the damages shall not be more than \$1000. for each violation.

(k) Enforcement of Award -- (1) Any damages imposed on a member Line shall be remitted to the Secretary within ten (10) days of the notification of the award.

(2) In the case of a General Passenger Agency, or sub-agency, which fails to pay the amount of any damages awarded against it, such agency shall ipso facto be disqualified from acting in any capacity for any member Line, and each member Line undertakes not to employ it, and if continued as agency by any member Line or reinstated without the consent of all member Lines during the continuance of this General Agreement, it shall constitute a violation hereof by the member Line employing or reinstating such agency.

(3) Each member Line hereby agrees that the amount of any damages that may be imposed upon it by the Arbitrators, as above provided, shall be treated as the liquidated and ascertained damage for the violation complained of, and not in

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the nature of a penalty or under any circumstances regarded otherwise than as the true and ascertained damage resulting from the violation, and each member Line hereby irrevocably declares itself finally estopped from raising any contrary contention.

(1) Reconsideration of Award -- (1) The Court of Arbitrators shall, notwithstanding that they may have made and published an award, have power to reopen and reconsider the same and to hear further evidence and to make a new award, provided cause be shown satisfactory to them within three weeks after the award is first made and published; the final determination of such reconsideration of the award shall be filed by the Arbitrators with the Secretary within ten days after the matter has been re-opened. All further statements and the Arbitrators' final determination shall be promulgated simultaneously to all member Lines.

(2) The award of the Court of Arbitrators shall take the place of, and shall be the equivalent to, a legal judgment given by the highest forms of any law court, against which all right of appeal has been exhausted except as herein provided under clause (m) and clause (p), and it is expressly understood that all member Lines relinquish all and every right to employ against the award given, any court or other legal proceedings of whatever name or description such proceedings may be.

(m) Appeal from Award -- Any Line involved in an arbitration shall have the right to appeal from an award to the ATLANTIC PASSENGER STEAMSHIP CONFERENCE for final decision under its agreement.

(n) Disposition of Damages Awarded -- The Court of Arbitrators shall alone have the power to determine the amount of damages to be assessed and the disposition thereof, i.e., whether they are to be credited:

(1) To the complaining member Line.

(2) To the complaining member Line and/or the member Lines concerned in the action preferred.

(3) To all member Lines generally, except the member Line complained of.

(o) Costs -- Any expenses incurred by the Court of Arbitrators or the Umpire will be borne by the Conference.

(p) Special Court of Arbitrators -- Although the foregoing is accepted by all parties as the normal and regular procedure for the settlement of disputes, it is agreed that any member Line filing a complaint or claim has the right to appoint its own Arbitrator outside of the Court of Arbitrators referred to herein. The member Line or Lines complained of shall also have the right to appoint their own Arbitrator outside of the aforesaid Court of Arbitrators. The two Arbitrators so selected shall appoint an Umpire of their own choosing should they find it impracticable to reach a unanimous decision.

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(2) The decision of the said Arbitrators or Umpire so appointed shall be final and binding and beyond which there shall be no redress or further appeal.

ARTICLE HMISCELLANEOUS

(a) Rules and Regulations -- The Conference may adopt rules and regulations in conformity with this General Agreement, to govern the member Lines in the sale of ocean transportation and in the handling of their passenger traffic, and for guidance of themselves and of their General Passenger Agents and sub-agents. A Copy of any such rules and regulations shall be furnished promptly to the governmental agency charged with the administration of Section 15 of the Shipping Act, 1916, as amended, and any agreed rules or regulations constituting an understanding within the purview of Section 15 of the Shipping Act, 1916, shall not be made effective until such rule or regulation has been approved by the Governmental Agency pursuant to that statute.

(b) Alterations or Additions -- Rules or regulations of the Conference may be adopted, altered, amended or rescinded only by unanimous vote of the member Lines, provided such additions or alterations are not opposed to or in contradiction with the ATLANTIC PASSENGER STEAMSHIP CONFERENCE Agreement or Rules.

(c) Compliance by Lines -- (1) The member Lines shall in good faith abide by and comply with this General Agreement and the rules and regulations adopted thereunder, in complete harmony with the spirit as well as the letter thereof, and shall assume responsibility for similar compliance by their respective employees.

(2) As long as the General Agreement and the rules adopted thereunder are in force, no member Line shall advertise or quote rates or apply conditions other than those provided for therein, even for sailings subsequent to the expiration thereof.

(3) A member Line shall not be justified in violating any of the provisions of the General Agreement or the rules adopted thereunder, on the ground that some other member Line is, or may be, or is alleged to be, doing so. Any member Line believing that it has any complaint in regard to non-observance of the General Agreement or of the rules, shall report particulars of same to the Secretary.

(4) Reports, in full, of violations of any rule on the part of any member Line, General Passenger Agency, or sub-agency shall be promulgated by the Secretary to all member Lines. When such information is transmitted by a member Line, the name of such member Line shall be withheld except that when it relates to the Advertising Rules the Line's name shall be mentioned, unless a sub-agency is involved. A member Line, General Passenger Agency, or sub-agency against which such complaint is made, shall be communicated with at once and, after investigation, the matter shall be disposed of in the manner provided for in the General Agreement or in rules adopted thereunder.

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(d) Interpretation of General Agreement or of Rules -- (1) Reference to Rules Committee. Should a difference of opinion arise between two or more member Lines regarding the interpretation of any provisions of the General Agreement or of any of the rules adopted thereunder, the matter shall be promptly referred to the Rules Committee for study and for recommendation to all member Lines for consideration at the next meeting of the Lines. If unanimous agreement regarding such interpretation cannot be reached at such meeting, the difference of opinion shall immediately be determined finally by arbitration.

(2) Reference to Atlantic Conference. In the event that the difference of opinion affects the interpretation of a provision of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE Agreement or the rules or minutes adopted thereunder, the matter shall be referred for decision to the Secretary of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE.

(e) Adherence by Agents -- The member Lines shall insist upon a rigid adherence by their General Passenger Agents and sub-agents to the letter and spirit of such rules and regulations as may be established for their conduct and guidance

(f) Deliberations Confidential -- All resolutions, deliberations, considerations, discussions and informal or other conversations between or among the member Lines, in Conference or otherwise, which do not result in agreed actions, shall be considered as confidential in the highest degree and shall not be divulged to sub-agents or unauthorized persons.

(g) Publicity -- The proceedings, resolutions, or discussions of Conference, whether or not resulting in agreed action, shall not be divulged to the press, sub-agents, or unauthorized persons, unless by unanimous consent of the member Lines.

(h) Compliance with Law -- No action violative of any of the regulatory provisions of the United States Shipping Act, as amended, shall be taken under this General Agreement or under the rules and regulations that may be adopted thereunder.

MEDITERRANEAN CRUISE AGREEMENT

(Approved as Conference Agreement No. 120-21 on October 21, 1935 and modified by 120-35; 120-55 and 120-56; suspended indefinitely by 120-69 effective November 1, 1939).

WORLD CRUISE AGREEMENT

(Approved as Conference Agreement No. 120-59 on December 13, 1938 and modified by 120-67; suspended indefinitely by 120-69 effective November 1, 1939).

WESTERN EUROPE - BRITISH ISLES - SCANDINAVIA CRUISE AGREEMENT

(Approved as Conference Agreement No. 120-56 on April 21, 1938 and modified by 120-63; suspended indefinitely by 120-69 effective November 1, 1939).

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NORTH CAPE CRUISE AGREEMENT

(Approved as Conference Agreement No. 120-38 on January 6, 1937, and modified by 120-51 and 120-64; suspended indefinitely by 120-69 effective November 1, 1939).

AFRICA CRUISE AGREEMENT

(Approved as Conference Agreement No. 120-60 on December 20, 1938; suspended indefinitely by 120-69 effective November 1, 1939).

USCCOM-NA-DC

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Exhibit 2



Copy of
Federal Maritime Board
Agreement No. 7840-40

May 27, 1960

The carriers by water, members of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE, hereby agree to and, pursuant to the requirements of Section 15 of the Shipping Act, 1916, as amended, hereby file with the Federal Maritime Board for approval, the following modifications of Agreement 7840, between said members of the Atlantic Passenger Steamship Conference:-

Delete entire Article 2(c)(ii) and substitute the following:-

- "(ii) Discontinuance of Service. If a Member Line ceases to exist, the effective date for termination of membership shall be the last day of the month following that in which such Line last carried passengers; provided that if a Member Line serves notice that it has discontinued or intends to discontinue the transportation of passengers to or from ports which come within the scope of this Agreement, the effective date for termination of membership shall be the last day of the month following that in which such Line last carried passengers, or served such notice, whichever is the later.

In the event any Member Line fails to have a sailing between ports covered by this Agreement for six consecutive months, its right to vote on any matter within the scope of this Agreement shall be suspended until it resumes service, it being understood that resumption of service shall be construed to mean the public announcement of a sailing between such ports and of readiness to undertake passenger bookings for that sailing; if such failure continues for a further period of six consecutive months its membership shall cease automatically, provided that if failure to maintain such a sailing is occasioned by war, force majeure, direction of a Governmental competent authority, or circumstances beyond a Member Line's control or the employment of its vessels on cruises to or from any port within the scope of the Agreement, either of the above-mentioned periods of six consecutive months may be extended for the period of the continuation of such circumstances, by unanimous consent of the other Member Lines. Notice of suspension or restoration of voting rights and cessation of membership or continuation of non-voting membership beyond either of the periods of six consecutive months, shall be promptly furnished to the Governmental agency charged with the administration of Section 15 of the United States Shipping Act, 1916."

Delete Article 2(c)(iv) and substitute the following:-

- "(iv) Responsibility for Expenses. The financial responsibility of any Member Line withdrawing from the Agreement, or whose membership is terminated under the applicable provisions of this Agreement, ceases on the date that such withdrawal or termination becomes effective, but it shall remain liable for and duly discharge all obligations accrued up to that date."

Delete Article 9(1) and substitute the following:-

- "(1) Compliance by Lines. The Member Lines shall in good faith abide by and comply with this Agreement and the Rules adopted thereunder in complete harmony with the spirit as well as the letter thereof, and shall assume responsibility for similar compliance by their respective employees.

Each Member Line shall deposit with the Secretary of the Trans-Atlantic Passenger Steamship Conference, as trustee for the Secretary of the Atlantic Passenger Steamship Conference an appropriate irrevocable letter of credit issued by a New York bank for U. S. \$25,000, valid until December 31 in the year in which it is furnished

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or such other instrument as provides, in the opinion of the Secretary of the Trans-Atlantic Passenger Steamship Conference, equal security for the faithful performance of this Agreement and to meet any possible award rendered in accordance with Article 8 hereof.

The sum shown in the instrument so deposited shall be considered the amount of liquidated damages and be entirely forfeited if the Line which deposited the instrument withdraws from this Agreement before the expiration of the agreed period of notice, or if it resorts within such period of notice to any actions which render the continuance of this Agreement impossible and which are, therefore, to be considered equivalent to an undue withdrawal from this Agreement.

If a Line is admitted to membership prior to September 1 in any one year the irrevocable letter of credit, or other instrument, must be valid at least until December 31 of that year. If a Line is admitted to membership on or after September 1 in any year irrevocable letter(s) of credit, or other instrument(s) valid until December 31 of the ensuing year must be furnished. If a Member Line fails to furnish such security within 30 days of admission to membership, such membership is automatically terminated, unless all Lines agree to an extension of time.

If a Member Line fails to furnish by September 1 in any year a renewal of such irrevocable letter of credit or other instrument for the ensuing year to December 31, the matter shall be reported by the Secretary to the Court of Arbitrators which may impose liquidated damages not exceeding U. S. \$200 for each day subsequent to September 1 that such instrument is not renewed. If such renewal is not forthcoming by November 1, in any year, the deposit of U. S. \$25,000 will be forfeited. The Arbitrators and the Secretary are empowered to take such action as may be necessary to enforce the security. If renewal of security is not forthcoming by December 31, the membership of the Line will be automatically terminated on that date unless all other Lines agree to an extension of time.

The Governmental Agency charged with the administration of Section 15 of the U. S. Shipping Act, 1916, as amended, will immediately be informed of any termination of membership under the terms of this Article."

Filed by authority of and on behalf of the following carriers comprising the membership of the Atlantic Passenger Steamship Conference:

- A. B. Svenska Amerika Linien (Swedish American Line)
- * American Export Lines, Inc.
- * American President Lines, Ltd.
- Canadian Pacific Railway Company (Canadian Pacific Steamships)
- Compagnie Generale Transatlantique (French Line)
- Companhia Nacional de Navegacao
- The Cunari Steam-Ship Company Ltd.
- Den Norske Amerikalinje A/S (Norwegian America Line)
- The Donaldson Line Ltd.

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Europa-Canada Linie G.m.b.H. (Europe-Canada Line)
General Steam Navigation Co. Ltd. of Greece)
Transatlantic Shipping Corp.) as one member only
Neptunia Shipping Co., S. A.)
Arcadia Steamship Corporation)
(GREEK LINE)
Hamburg Atlantik Linie G.m.b.H.
Home Lines Inc. (Home Lines)
Ingres Steamship Company Ltd.
"Italia" Societa per Azioni di Navigazione (Italian Line)
Johnston Warren Lines Ltd. (Furness Warren Line)
The Khedivial Mail Line S.A.E.
Maatschappij "Zeetransport" N.V. (Oranje Line)
National Hellenic American Line
Norddeutscher Lloyd
N. V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn"
Polish Ocean Lines (Gdynia America Line)
Sicula Oceanica S. A.
✓ United States Lines Company (United States Lines)
Zim Israel Navigation Co. Ltd. (Zim Lines)

By:

/s/ R. M. L. DUFFY

R. M. L. Duffy, Secretary
Atlantic Passenger Steamship Conference

191a

Exhibit 2

Copy of
Federal Maritime Board
Agreement No. 7840-39
Approved August 4, 1960

65 Sandgate Road
FOLKESTONE, Kent.
England

May 20, 1960.

The common carriers by water, members of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE, hereby agree to and, pursuant to the requirements of Section 15 of the Shipping Act, 1916, as amended, hereby file with the Federal Maritime Board for approval, the following modification of Agreement 7840, between said members of the Atlantic Passenger Steamship Conference:-

Delete entire Provision 7 to Annex 1 and substitute the following:-

"7. PARTY ORGANISERS:

- (1) Round-Trip where party travels by Member Lines in both directions.

A Party Organiser, who may or may not be an appointed agent, who secures a party of 20 or more round-trip passengers by an Atlantic Passenger Steamship Conference Member Line paying full adult fares (two half-fares count as one adult fare) irrespective of the class or classes in which the party may be travelling, and has the party conducted, may be given one free round-trip passage for himself or his representative acting as bona fide party conductor for each group of 20 round-trip full-fare paying passengers, limiting the free tickets to five bona fide Party Conductors for any one Party Organiser by any one sailing. The party must be a bona fide organised party which has been advertised for at least one month prior to sailing date, and all members of the party must be booked and ticketed round-trip.

- (2) Round-Trip, Round-the-World and Triangular Tours where one-way crossing by Member Line.

A Party Organiser, who may or may not be an appointed agent, who secures a party of 20 or more passengers paying full adult fares (two half-fares count as one adult fare) travelling

- (i) one-way by a Member Line and one-way, also trans-Atlantic, by other means

or

- (ii) making an around-the-world or a triangular tour, including one-way passage by a Member Line

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Agreement No. 7840-39

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irrespective of the class or classes in which the party may be travelling and has the party conducted, irrespective of the point at which the tour commences, may be given one free one-way Atlantic passage for himself or his representative acting as bona fide party conductor for each group of 20 full-fare paying passengers, limiting the free tickets to five bona fide Party Conductors for any one Party Organiser by any one sailing. The party must be a bona fide organised party which has been advertised for at least one month prior to date of outward departure, and all members of the party must be booked and ticketed throughout in accordance with sub-paragraphs (1) or (11) above.

(5) One-Way Low Season.

A Party Organiser, who may or may not be an appointed agent, who secures a party consisting of 20 or more students and/or teachers or similar groups paying full adult fares (two half-fares count as one adult fare) sailing eastbound or westbound in the appropriate low season period of any year, irrespective of the class in which the party may be travelling, and has the party conducted, may be given one free one-way Atlantic passage for himself or his representative acting as bona fide party conductor for each group of 20 full-fare paying passengers, limiting the free tickets to five bona fide Party Conductors for any one Party Organiser by any one sailing. The party must be a bona fide organised party which has been advertised for at least one month prior to date of outward departure.

The foregoing is subject to the following conditions:-

- (a) These concessions may only be applied to groups of passengers paying full one-way or agreed round-trip rates.
- (b) The class of passage which may be accorded to a Party Organiser under this provision is left to the discretion of the Lines.
- (c) No monetary allowance may be made to a Party Organiser in lieu of a free ticket, which has no refund value. Conductors' tickets must be endorsed "Free ticket - Party Conductor" and can only be honoured for a bona fide Party Conductor.
- (d) Free passages so granted are to be advised to Conference within one week of passengers' embarkation.
- (e) Commission may be paid to regularly appointed agents, but not to Party Organisers who are not agents.
- (f) In connection with parties defined in paragraph (2) hereof, documentary evidence of travel on other sectors to be produced.

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Agreement No. 7840-39

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- (g) The party must travel together at least one way by one sailing of the Member Line.
- (h) A party travelling outward by one Member Line may return by another Member Line."

Filed by authority of and on behalf of the following carriers comprising the membership of the Atlantic Passenger Steamship Conference:

A.B. Svenska Amerika Linien (Swedish American Line)
 American Export Lines, Inc.
 American President Lines, Ltd.
 Canadian Pacific Railway Company (Canadian Pacific Steamships)
 Compagnie Generale Transatlantique (French Line)
 Companhia Colonial de Navegacao
 The Cunard Steam-Ship Company Ltd.
 Den Norske Amerikalinje A/S (Norwegian America Line)
 The Donaldson Line Ltd.
 Europa-Canada Linie G.m.b.H. (Europe-Canada Line)
 General Steam Navigation Co. Ltd. of Greece
 Transatlantic Shipping Corp.
 Neptunia Shipping Co., S.A.
 Arcadia Steamship Corporation
 (GREEK LINE)
 Hamburg Atlantik Linie G.m.b.H.
 Home Lines Inc. (Home Lines)
 Inores Steamship Company Ltd.
 "Italia" Societa per Azioni di Navigazione (Italian Line)
 Johnston Warren Lines Ltd. (Furness Warren Line)
 The Khedivial Mail Line S.A.E.
 Maatschappij "Zee-transport" N.V. (Oranje Line)
 National Hellenic American Line
 Norddeutscher Lloyd
 N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn"
 Polish Ocean Lines (Gdynia America Line)
 Sicula Oceanica S.A.
 United States Lines Company (United States Lines)
 Zim Israel Navigation Co. Ltd. (Zim Lines)

} as one member only

By: S/R. M. L. Duffy
R. M. L. Duffy, Secretary
 Atlantic Passenger Steamship Conference

194a

**Exhibit 2**

Copy of
Federal Maritime Board
Agreement No. 7840-38

May 18, 1960

The common carriers by water, members of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE, hereby agree to-and, pursuant to the requirements of Section 15 of the Shipping Act, 1916, as amended, hereby file with the Federal Maritime Board for approval, the following modification of Agreement 7840, between said members of the Atlantic Passenger Steamship Conference:

Modify Annex 1-8. by amending the heading thereof to read:

"8. MILITARY RATES 1960 - 1961 (New language underscored)

One-way Tourist rates may be subject to a reduction of 10% in all seasons for military personnel including spouses and dependent children moving under Government orders."

Filed by authority of and on behalf of the following carriers comprising the membership of the Atlantic Passenger Steamship Conference:

A.B. Svenska Amerika Linien (Swedish American Line)
 American Export Lines, Inc.
 American President Lines, Ltd.
 Canadian Pacific Railway Company (Canadian Pacific Steamships)
 Compagnie Generale Transatlantique (French Line)
 Companhia Colonial de Navegacao
 The Cunard Steam-Ship Company Ltd.
 Den Norske Amerikalinje A/S (Norwegian America Line)
 The Donaldson Line Ltd.
 Europa-Canada Linie G.m.b.H. (Europe-Canada Line)
 General Steam Navigation Co. Ltd. of Greece
 Transatlantic Shipping Corp.
 Septimia Shipping Co., S.A.
 Aradisa Steamship Corporation
 (GREEK LINE) } as one member only
 Hamburg Atlantik Linie G.m.b.H.
 Home Lines Inc. (Home Lines)
 Indreva Steamship Company Ltd.
 "Italia" Societa per Azioni di Navigazione (Italian Line)
 Johnston Warren Lines Ltd. (Furness Warren Line)
 The Rhedivial Mail Line S.A.E.
 Maatschappij "Zeetransport" N.V. (Oranje Line)
 National Hellenic American Line
 Norddeutscher Lloyd
 N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn"
 Polish Ocean Lines (Gdynia America Line)
 Sicula Oceanica S.A.
 United States Lines Company (United States Lines)
 Zim Israel Navigation Co., Ltd. (Zim Lines)

By: s/ R.M.L. DUFFY

R.M.L. Duffy, Secretary
 Atlantic Passenger Steamship Conference

Per: s/ D. I. KNOWLES
 D.I. KNOWLES (by cable
 authorization)

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Exhibit 2

Copy of
Federal Maritime Board
Agreement No. 7840-37



May 5, 1960

The common carriers by water, members of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE, hereby agree to and, pursuant to the requirements of Section 15 of the Shipping Act, 1916, as amended, hereby file with the Federal Maritime Board for approval, the following modification of Agreement 7840, between said members of the Atlantic Passenger Steamship Conference:-

Insert immediately under and as part of Article 8(f), the following:-

"These time limits may be extended if all parties to the Arbitration, or in the case of a rating arbitration the applying party, so agree."

Delete Article 8(g) and replace by the following:-

"(g) Any expenses incurred by the Court of Arbitrators or Umpire will be charged to one or more Member Lines as decided by the Court of Arbitrators or Umpire."

Filed by authority of and on behalf of the following carriers comprising the membership of the Atlantic Passenger Steamship Conference:

A.B.Svenska Amerika Linien (Swedish American Line)
American Export Lines, Inc.
American President Lines, Ltd.
Canadian Pacific Railway Company (Canadian Pacific Steamships)
Compagnie Générale Transatlantique (French Line)
Companhia Colonial de Navegacao
The Cunard Steam-Ship Company Ltd.
Den Norske Amerikalinje A/S (Norwegian America Line)
The Donaldson Line Ltd.
Europa-Canada Linie G.m.b.H. (Europe-Canada Line)
General Steam Navigation Co. Ltd. of Greece }
Transatlantic Shipping Corp. } as one member only
Neptunia Shipping Co., S.A. }
Arcadia Steamship Corporation }
(GREEK LINE)
Hamburg Atlantik Linie G.m.b.H.
Home Lines Inc. (Home Lines)
Ingres Steamship Company Ltd.
"Italia" Società per Azioni di Navigazione (Italian Line)
Johnston Warren Lines Ltd. (Furness Warren Line)
The Khedivial Mail Line S.A.E.
Maatschappij "Zeetransport" N.V. (Oranje Line)

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National Hellenic American Line
Norddeutscher Lloyd
N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn"
Polish Ocean Lines (Gdynia America Line)
Sicula Oceanica S.A.
United States Lines Company (United States Lines)
Zim Israel Navigation Co. Ltd. (Zim Lines)

By:

S/ R.M.L. DUFFY
R.M.L. Duffy, Secretary
Atlantic Passenger Steamship Conference

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Exhibit 2

Copy of
Federal Maritime Board
Agreement No. 7840-36
Approved May 12, 1960

65 Sandgate Road,
FOLKESTONE. Kent. England

March 14, 1960

The common carriers by water, members of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE, hereby agree to and, pursuant to the requirements of Section 15 of the Shipping Act, 1916, as amended, hereby file with the Federal Maritime Board for approval, the following modification of Agreement 7840, between said members of the Atlantic Passenger Steamship Conference:

Modify Annex 1 by adding a new provision, to be numbered 8, reading:-

*8. MILITARY RATES 1960

One-way Tourist rates may be subject to a reduction of 10% in all seasons for military personnel including spouses and dependent children moving under Government orders."

Filed by authority of and on behalf of the following carriers comprising the membership of the Atlantic Passenger Steamship Conference:

A.B. Svenska Amerika Linien (Swedish American Line)
American Export Lines, Inc.
American President Lines, Ltd.
Canadian Pacific Railway Company (Canadian Pacific Steamships)
Compagnie Generale Transatlantique (French Line)
Companhia Colonial de Navegacao
The Cunard Steam-Ship Company Ltd.
Den Norske Amerikalinje A/S (Norwegian America Line)
The Donaldson Line Ltd.
Europa-Canada Linie G.m.b.H. (Europe-Canada Line)
General Steam Navigation Co. Ltd. of Greece)
Transatlantic Shipping Corp.)
Neptunia Shipping Co., S.A.) as one member only
Arcadia Steamship Corporation)
(GREEK LINE))
Hamburg Atlantik Linie G.m.b.H.
Home Lines Inc. (Home Lines)
Inces Steamship Company Ltd.
"Italia" Societa per Azioni di Navigazione (Italian Line)
Johnston Warren Lines Ltd. (Furness Warren Line)
The Khedivial Mail Line S.A.E.
Maatschappij "Zeetransport" N.V. (Oranje Line)
National Hellenic American Line
Norddeutscher Lloyd
N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn"
Polish Ocean Lines (Gdynia America Line)
Sicula Oceanica S.A.
United States Lines Company (United States Lines)
Zim Israel Navigation Co. Ltd. (Zim Lines)

By: s/ R. M. L. DUFFY
R. M. L. DUFFY, Secretary
Atlantic Passenger Steamship Conference

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Exhibit 2

Copy of
Federal Maritime Board
Agreement No. 7840-35



ATLANTIC PASSENGER STEAMSHIP CONFERENCE

65 Sandgate Road,
FOLKESTONE. Kent.
England.

March 1, 1960.

The common carriers by water, members of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE, hereby agree to and, pursuant to the requirements of Section 15 of the Shipping Act, 1916, as amended, hereby file with the Federal Maritime Board for approval, the following modification of Agreement 7840, between said members of the Atlantic Passenger Steamship Conference:

Insert immediately under and as part of Provision 3 of Annex 1, the following:

"(Commentary: It is understood that widows and minor children (whether or not pensioned) of deceased Railroad officers and employees are not entitled to the reduction in ocean rates accorded to Railroad officers and employees.)"

Filed by authority of and on behalf of the following carriers comprising the membership of the Atlantic Passenger Steamship Conference:

A. B. Svenska Amerika Linien (Swedish American Line)
American Export Lines, Inc.,
American President Lines, Ltd.
Canadian Pacific Railway Company (Canadian Pacific Steamships)
Compagnie Generale Transatlantique (French Line)
Companhia Colonial de Navegacao
The Cunard Steam-Ship Company Ltd.
Den Norske Amerikalinje A/S (Norwegian America Line)
The Donaldson Line Ltd.
Europe-Canada Linie G.m.b.H. (Europe-Canada Line)
General Steam Navigation Co. Ltd. of Greece)
Transatlantic Shipping Corp.
Neptunia Shipping Co., S.A.
Arcadia Steamship Corporation
(GREEK LINE)
Hamburg Atlantik Linie G.m.b.H.
Home Lines Inc. (Home Lines)
Ingres Steamship Company Ltd.
"Italia" Societa per Azioni di Navigazione (Italian Line)
Johnston Warren Lines Ltd. (Furness Warren Line)
The Khedivial Mail Line S.A.E.
Maatschappij "Zee-transport" N.V. (Oranje Line)
National Hellenic-American Line

} as one member only

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Exhibit 2

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Norddeutscher Lloyd
N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn"
Polish Ocean Lines (Gdynia America Line)
Sicula Oceanica S.A.
United States Lines Company (United States Lines)
Zim Israel Navigation Co. Ltd. (Zim Lines)

By:

s/ R. M. L. DUFFY

R. M. L. Duffy, Secretary
Atlantic Passenger Steamship Conference

Exhibit 2

Copy of
Federal Maritime Board
Agreement No. 7840-34
Approved September 3, 1959

65 Sandgate Road,
FOLKESTONE. Kent.
England.

"The common carriers by water, members of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE, hereby agree to and, pursuant to the requirements of Section 15 of the Shipping Act, 1916, as amended, hereby file with the Federal Maritime Board for approval, the following modifications of Agreement 7840, between said members of the Atlantic Passenger Steamship Conference:

Delete entire Provisions 4(c) and 5 to Annex 1 and substitute the following:-

"4(B) Agents, Responsible Clerks of General Agents and Agents and their Wives and Children.

An Agent who has been appointed for at least one year or the responsible clerk of a General Agent or of an Agent dealing with steamship agency work who has been employed continuously by the Agent for at least one year may be granted a reduction of 75% off the minimum one-way or round-trip rate of the class of the ship by which he travels. The wife and dependent children under 18 years of age of such an Agent or a responsible clerk may also be granted this reduction.

(Commentary: It is understood that a permanent Canadian Railroad salaried employee in Canada (except any railroad traffic department employee who operates a steamship ticket business in a trade name and pays the applicable annual sub-agency fee) who also holds appointment as steamship sub-agent for one or more member Lines, or who acts as responsible clerk to such sub-agent, his wife and dependent children under 18 years of age, shall be eligible only for the reduced rate authorized by provision 3(1) of Annex 1 and not by provision 4(B) above)."

"5. Blind Persons Accompanied by Conductors.

Provided the application is received from the Braille League for the Blind, the Institute for the Blind, or similar institutions, the total charge for a blind person accompanied by a conductor shall for the two passengers be one and one-half times the one way or round-trip applicable. A "Seeing Eye" dog accompanying a blind person may be carried free of charge.

Filed by authority of and on behalf of the following carriers comprising the membership of the Atlantic Passenger Steamship Conference:

Exhibit 2

Agreement No. 7840-34

- 2 -

A. B. Svenska Amerika Linien (Swedish American Line)
 American Banner Lines, Inc.
 American Export Lines, Inc.
 American President Lines, Ltd.
 Canadian Pacific Railway Company (Canadian Pacific Steamships)
 Compagnie Generale Transatlantique (French Line)
 Companhia Colonial de Navegacao
 The Cunard Steam-Ship Company Ltd.
 Den Norske Amerikalinje A/S (Norwegian America Line)
 The Donaldson Line Ltd.
 Europa-Canada Linie G.m.b.H. (Europe-Canada Line)
 General Steam Navigation Co. Ltd. of Greece
 Transatlantic Shipping Corp.
 Neptunia Shipping Co., S. A.
 Arcadia Steamship Corporation
 (GREEK LINE)

} as one member only

Hamburg Atlantik Linie G.m.b.H.
 Home Lines Inc. (Home Lines)
 Inores Steamship Company Ltd.
 "Italia" Societa per Azioni di Navigazione (Italian Line)
 Johnston Warren Lines Ltd. (Furness Warren Line)
 The Khedivial Mail Line S.A.E.
 Maatschappij "Geotransport" N. V. (Oranje Line)
 National Hellenic American Line
 Norddeutscher Lloyd
 N. V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn"
 Polish Ocean Lines (Gdynia America Line)
 Sicula Oceanica S. A.
 United States Lines Company (United States Lines)
 Zim Israel Navigation Co. Ltd. (Zim Lines)

By:

/s/ R. M. L. DUFFY

R. M. L. Duffy, Secretary
 Atlantic Passenger Steamship Conference

(Exh. 2)

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Exhibit 2

COPY OF
FEDERAL MARITIME BOARD
Agreement No. 784C
Approved: August 29, 1946
As amended to December 22, 1958

ATLANTIC PASSENGER STEAMSHIP CONFERENCE

Conference Membership as of January 23, 1959

A.-B. Svenska Amerika Linien (Swedish American Line)
American Banner Lines, Inc.
American Export Lines, Inc.
American President Lines, Ltd.
Arosa Line, Inc.
Canadian Pacific Railway Company (Canadian Pacific Steamships)
Compagnie Generale Transatlantique (French Line)
Companhia Colonial de Navegacao
The Cunard Steam-Ship Company Limited
Den Norske Amerikalins A/S (Norwegian America Line)
The Donaldson Line Limited
Europa-Canada Linie G.m.b.H.
(Greek Line) - Joint Service of
 General Steam Navigation Co. Ltd., of Greece
 Transatlantic Shipping Corp.
 Neptunia Shipping Co., S.A.
 Arcadia Steamship Corporation
Hamburg-Atlantik Linie GMBH. (Hamburg-Atlantic Line)
Home Lines Inc. (Home Lines)
Ingres Steamship Company, Ltd.
"Italia" Societa per Azioni di Navigazione (Italian Line)
Johnston Warren Lines, Ltd. (Furness Warren Lines)
The Khedivial Mail Line S.A.E.
National Hellenic American Line
Norddeutscher Lloyd
N.V. Nederlandsch-Amerikaansche Stoomvaart Maatschappij "Holland-
 Amerika Lijn"
Oranje Lijn (Maatschappij Zeetransport) N.V.
Polish Ocean Lines (Gdynia America Line)
Sigula Oceanica S.A.
United States Lines Company (United States Lines)
Zim Israel Navigation Company Ltd. (Zim Lines)

Associate Members

Anchor Line Limited (Anchor Line)
(Belgian Line) - Joint Service of
 Compagnie Maritime Belge (Lloyd Royal), S.A.
 Compagnie Maritime Congolaise, S.C.R.L.
Cairns Noble & Co., Limited, Newcastle-upon-Tyne
Ellerman's Wilson Line, Limited

Exhibit 2

Agreement No. 7840 (Cont'd.) - Page 2

Associate Members (Cont'd.)

(Fern-Ville Mediterranean Lines) - Fearnley & Eger and A.F. Klaveness & Co. A/S) - Joint Service of

Skibsaktieselskapet Varild	Skibsaktieselskapet Sangstad
Skibsaktieselskapet Marina	Skibsaktieselskapet Solstad
Aktieselskabet Glitre	Skibsaktieselskapet Siljestad
Dampskibsinteressentskabet Garonne	Dampskibsaktieselskabet International
Aktieselskabet Standard	Skibsaktieselskapet Mandeville
Fearnley & Egers Befragtnings- forretning A/S	Skibsaktieselskapet Goodwill

Irish Shipping Limited
Isthmian Lines, Inc.
Manchester Liners Limited
Moore-McCormack Lines, Inc. (American Scantic Line)
Nippon Yusen Kaisha
Rederiaktiebolaget Transatlantic (The Swedish "Transatlantic" Line)

Richard M. L. Duffy, Secretary
65 Sandgate Road
Folkestone, England

Exhibit 2

ATLANTIC PASSENGER STEAMSHIP CONFERENCE AGREEMENT

Dated LONDON, February 12, 1946

ARTICLE 1

CONSTITUTION AND SCOPE

(a) An Agreement with respect to the constitution of the Atlantic Passenger Steamship Conference and rates and conditions for the booking and carriage of Atlantic Passenger Traffic as set out in Para. (b), hereunder.

(b) SCOPE. This Agreement shall govern all Atlantic passenger traffic carried by the Member Lines.

Atlantic Passenger traffic is defined as all passengers travelling in ships owned or operated by the Member Lines between: -

- (i) All ports of European, Mediterranean, and Black Sea Countries, also the ports of Morocco, Madeira and the Azores Islands.

and

- (ii) All ports on the East Coast of North America (United States, Canada and Newfoundland), also United States Gulf ports.

(c) PURPOSE. Recognising that efficient and economic trans-Atlantic travel is in the public interest the purpose of the Conference is to promote and cultivate trans-Atlantic travel in the best practicable conditions, to maintain friendly cooperation among the Member Lines, to establish and maintain equitable fares, to regulate rates of commissions, to coordinate action, harmonize policies and regulate conditions generally for, or in connection with, the transportation of passengers as set forth in this Agreement.

ARTICLE 2

MEMBERSHIP

(a) MEMBERS.

(i) Parties to this Agreement are:

AMERICAN EXPORT LINES, INC.
AMERICAN PRESIDENT LINES
ANCHOR LINE LIMITED
CANADIAN PACIFIC STEAMSHIPS LTD.
COMPAGNIE GENERALE TRANSATLANTIQUE
CUNARD WHITE STAR LIMITED
DET ØSTASIATISKE KOMPAGNI - THE EAST ASIATIC COMPANY LIMITED
DONALDSON ATLANTIC LINE LTD.
FURNESS, WITTH & CO., LIMITED
Gdynia Ameryka Linie Żeglowne S. A. - Gdynia America Shipping
Lines Limited

Exhibit 2

MOORE-McCORMACK LINES, INC. - AMERICAN SCANTIC LINE
N.V. NEDERLANDSCH-AMERIKAANSCH STEEDVAART-MAATSCHAPPIJ -
HOLLAND-AMERIKA LIJN
DEN NORSKE AMERIKALINJE A/S - NORWEGIAN AMERICA LINE
A.B. SVENSKA AMERIKA LINJEN - SWEDISH AMERICAN LINE
UNITED STATES LINES COMPANY

(iii) For the purpose of Par. (v) hereunder the Member Lines shall be classified in two groups, viz: the North Atlantic Group and the Mediterranean Group. They shall have the right to become members of either or both of these groups after they have maintained a regular service for six consecutive months in either or both of the under-noted areas:-

and

and

(iv) The Secretary will prepare and circulate to the Member Lines a list of the members of each group as and when they qualify for admission under Para. (iii) above. A correct list will be published as modifications made necessary by additions or deletions occur. The Secretary will also transmit promptly to the Governmental agency charged with the administration of Section 15 of the U. S. Shipping Act 1916, as amended, copies of any such notices promulgated to the Member Lines.

Exhibit 2

Agreement No. 7840 - Page 3

Article 2 (Cont'd.)

(v) If, in the unanimous opinion of the members of either group, conditions have arisen which made it desirable that the two groups should operate in separate conferences each member of the group (which must consist of at least two Member Lines) so deciding shall notify the Secretary in writing. The separation of the two groups shall become effective eight weeks after the date on which the last notification is received by the Secretary.

(vi) If a Member Line which is party to both groups fails without reasonable cause to have a sailing in the geographical area of one group for a period of six consecutive months it shall automatically lose its right under para. (v) to a vote in that group.

(vii) In the event of separation under para. (v) the scope of the Agreement for the North Atlantic Group shall be as defined under para. (iii) (A) and for the Mediterranean Group as defined under para. (iii) (B). Provided, however, no such separation of the two groups shall become effective unless and until an appropriate modification of this agreement has been filed with and approved by the United States Maritime Commission pursuant to Section 15 of the Shipping Act, 1916, as amended.

(b) ADMISSIONS TO AGREEMENT.

Any common carrier by water who has been regularly engaged as such common carrier in the trade covered by this agreement, or who furnishes evidence of ability and intention in good faith to institute and maintain a regular service between the ports within the scope of this agreement may hereafter become a party to this agreement by unanimous affirmative vote of the members and by signing this agreement or a counterpart thereof. In no instance shall admission to membership be denied an applicant except for just and reasonable cause. Prompt advice of any such denial, together with full statement of the reasons therefor shall be furnished the governmental agency charged with the administration of Section 15 of the United States Shipping Act, 1916, as amended. Every application for admission to membership shall be acted upon promptly, and no admission to membership shall be effective until cable or radio advice has been sent to the governmental agency.

A regular service is defined as one in which there will be at least six sailings per year with no interval of more than three calendar months between any two sailings.

(c) WITHDRAWALS FROM AGREEMENT.

(1) Period of Notice. Any Member Line may at any time terminate its membership of this Agreement by giving eight weeks' notice by registered letter to the Secretary. If a Member Line, after giving notice of withdrawal, desires either to cancel such notice or to postpone the date on which it is to become effective, then such withdrawal notice may be cancelled, or, with the unanimous consent of the Member Lines, the effective date thereof may be extended. During the period of notice such Member Line shall remain bound by all of the provisions of this Agreement, and such withdrawal shall not prejudice any accrued obligations.

(11) Discontinuance of Service. In the event that a Member Line ceases to exist, or in the case of a Member Line which serves notice that it has discontinued, or that it intends to discontinue, the transportation of passengers to or from ports which come

Exhibit 2

Agreement No. 7840 - Page 4

Article 2 (Cont'd.)

within the scope of this Agreement, the effective date for termination of membership shall be the last day of the month following that in which such Line last carried passengers.

In the event any Member Line fails to have a sailing between ports covered by this Agreement for six consecutive months, its right to vote on any matter within the scope of the Agreement shall be suspended until it resumes service, it being understood that resumption of service shall be construed to mean the public announcement of a sailing between such ports and of readiness to undertake passenger bookings for that sailing; if such failure continues for a further period of six consecutive months its membership shall cease automatically, provided that if failure to maintain such a sailing is occasioned by war, force majeure, direction of a Governmental competent authority, or circumstances beyond a Member Line's control, or the employment of its vessels on cruises to or from any port within the scope of the Agreement, either of the above mentioned periods of six consecutive months may be extended for the period of the continuation of such circumstances, by unanimous consent of the other Member Lines. Notice of suspension or restoration of voting rights and cessation of membership or continuation of non-voting membership beyond either of the periods of six consecutive months, shall be promptly furnished to the Governmental agency charged with the administration of Section 15 of the United States Shipping Act, 1916. (The operation of this clause is suspended until January 1, 1948).

(iii) Membership during period of Notice. A resigning Member Line shall not, after serving notice of intention to withdraw, have any vote on any rate, rules, regulation or other matter which is not to become effective until after the date of its resignation.

(iv) Responsibility for Expenses. The financial responsibility of any Member Lines withdrawing from the Agreement ceases on the date that such withdrawal becomes effective, but it shall remain liable for and duly discharge all obligations accrued up to that date.

(v) Effect of Withdrawal. The withdrawal of any Member Line from this Agreement releases the other Member Lines unless the latter agree among themselves to continue the Agreement under the same or under altered terms and conditions.

(d) ASSOCIATE MEMBERSHIP.

- (1) By the unanimous vote of the Member Lines any Steamship Line which, within the scope of this Agreement, operates only freight ships whose normal passenger capacity is not more than twelve or who furnishes evidence of ability and intention in good faith to so operate may become an Associate Member of the Atlantic Passenger Steamship Conference on the undernoted conditions. In no instance shall admission to associate membership be denied except for just and reasonable cause and any such admission shall not become effective until advice thereof has been addressed by the Secretary to the Governmental Agency charged with the administration of Section 15 of the United States Shipping Act, 1916, as amended. Every application for admission to Associate Membership shall be acted upon promptly, and prompt advice of any denial of admission to Associate Membership, together with a full and complete statement of the reasons therefor, will be furnished the aforementioned Governmental Agency by the Secretary.

Exhibit 2

Agreement No. 7840 - Page 5

Article 2 (Cont'd.)

(2) An Associate Member as defined above shall:-

- (i) Adopt no designation other than "First Class" or "One Class" for the passenger accommodation of all such freight ships.
 - (ii) Quote for each of its ships not less than the rates established for freight ships of similar type under the Atlantic Passenger Steamship Conference Agreement.
 - (iii) Alter its rates to correspond with any increase in rates made at any time for the ships of the Member Lines in order to retain the established relationship between its ships and those of the Member Lines.
 - (iv) Comply with the stipulation of Article 5 of this Agreement.
 - (v) Pay not in excess of the scale of agency commission paid for First Class or One Class accommodation on ships of the Member Lines.
 - (vi) Alter its scale of commission to correspond with any changes in the scale of commission made at any time by the Member Lines so as not to pay in excess of such revised scale.
 - (vii) Accept and abide by any rules by which the Member Lines are governed in the appointment or cancellation of sub-agents and the rules governing their activities in any territory within the scope of this Agreement and have the right to appoint any sub-agent in any of such territories already appointed by one or more of the Member Lines.
 - (viii) Report to the Secretary particulars of passenger carryings in accordance with such rules as may be adopted by the Member Lines.
 - (ix) Pay annually to the Conference, as a contribution to the cost of its operation and maintenance, a minimum sum to be established.
- (3) Any dispute arising in respect of the observance of these conditions shall be referred to an arbitrator selected by agreement between the parties concerned from the Principals of the Member or Associate Member Lines for settlement. The decision of the arbitrator to be final and binding.
- (4) None of the provisions of the Atlantic Passenger Steamship Conference Agreement other than those contained or specifically referred to in this paragraph (d) shall apply to Associate Members.
- (5) Associate Membership may be terminated by an Associate Member or by the Member Lines at any time on giving eight weeks' notice by registered letter through the Secretary, provided, however, that the Conference shall not terminate an Associate Membership except for just and reasonable cause. Prompt advice of any termination of Associate Membership, together with a full and complete statement of the reasons therefor in instances where such termination is effected by the Member Lines, will be furnished the Governmental Agency charged with the administration of Section 15 of the United States Shipping Act, 1916, as amended, by the Secretary.

Exhibit 2

Agreement No. 7840 - Page 6

ARTICLE 3ORGANIZATION(a) SECRETARY.

There shall be a Secretary with headquarters as may be agreed between the Member Lines. He shall be a person entirely and in every respect independent of any of the Member Lines and shall be appointed or dismissed by the unanimous vote of the Member Lines. His duties shall be as prescribed by para. (b) hereunder and in the Rules. Mr. Richard M. L. Duffy is hereby appointed Secretary.

(b) SECRETARY'S DUTIES.

(i) To execute and control the fulfilment of this Agreement and of the Rules adopted thereunder.

(ii) To act as mediator in general in the transactions between the Member Lines so far as such transactions appertain to matters relative to this Agreement and to the Rules adopted thereunder.

(iii) To collect the payment of any damages.

(iv) To call the meetings of the Member Lines and to keep the minutes of these meetings.

(v) To use every exertion to settle difficulties amicably.

(vi) To examine all Rate Sheets published by Member Lines in Europe, United States and Canada, and verify that the rates quoted therein are not below those established by the Conference. Should inaccuracies be noted the Secretary will request the Member Lines concerned to make the necessary corrections. If the incorrect rate is quoted in a rate statement published by a Member Line in the United States or Canada, notification will also be sent to the Secretary of the New York Conference.

(vii) For the due observance of the conditions of this Agreement the Secretary will arrange for periodical examinations to be made of the Lines' appropriate documents connected with passenger traffic for both westbound and eastbound sailings. A confidential report of the Secretary's examination will be circulated to the Lines. In the case of any reported infractions of this Agreement, the report will be submitted to three representatives of the Member Lines to be selected by ballot by the Secretary. Each Member Lines will nominate one representative who will be available for selection.

The Lines against which infractions are reported will furnish to the Secretary within six weeks from the date of publication of his report such explanations as they may wish to submit to the three representatives.

If no explanation is received within six weeks of the date of publication of the Secretary's report or if, in the opinion of the majority of the three representatives, such explanation is not satisfactory, the Line or Lines concerned shall be subject, for

Exhibit 2

Agreement No. 7840 - Page 7

Article 3 (Cont'd.)

each individual violation, to a fine equivalent to the amount of \$400, except that the three representatives may, if in their opinion the circumstances of the case warrant it, impose a fine which need not necessarily be up to the amount of \$400.

The amount of the fine shall be remitted to the Secretary within fourteen days of the date of the Secretary's intimation of the decision of the three representatives, irrespective of whether or not an appeal will be lodged. After deduction of the expenses of the three representatives the balance will be divided among the Lines, parties to this Agreement, on the basis of the Atlantic Passenger Steamship Conference expenses, but excluding the offending Line.

The decision of the three representatives is to be accepted by all parties to the Agreement as final and binding, except that the Lines have the right of appeal under Article 8 of this Agreement, provided notice of intention to lodge the appeal is received within fourteen days from the date of publication of the award.

Any Line feeling that it has any complaint in regard to the nonobservance of the terms of this Agreement may report particulars to the Secretary for investigation.

(c) CONFERENCE EXPENSES.

The salary of the Secretary shall be paid by the Member Lines in equal shares. Other expenses shall be paid by the Member Lines in proportion to the total number of passengers carried westbound and eastbound in each year.

(d) CONFERENCE ACTION.

At meetings convened as provided in para. (e) hereunder, the Member Lines present shall form a quorum, irrespective of the number. Conference action shall be by unanimous agreement of the Member Lines, except as may be otherwise provided herein.

(e) MEETINGS.

(i) Meetings are to be convened by the Secretary as and when required.

(ii) General Meetings shall be held on the second Thursday of March and the second Thursday of October each year. At each General Meeting the place for the following meeting shall be agreed upon.

(iii) Full details of the subject, or subjects, to be dealt with at General Meetings are to be notified by the Secretary to the Member Lines not less than three weeks before the date on which the meeting is to take place.

(iv) Special Meetings, if requested by one or more Member Lines, shall be held within four weeks, or as may be unanimously agreed. The Member Line or Lines requesting the Special Meeting shall at the same time notify the Secretary the subject or subjects for discussion.

Exhibit 2

Agreement No. 7840 - Page 8

Article 3 (Cont'd.)

(v) At General Meetings or Special Meetings resolutions cannot be taken upon any subjects which have not been duly notified to all the Member Lines, unless all the Member Lines are represented at such meetings, and agree.

(vi) Resolutions on subjects transmitted by the Secretary to the Member Lines can also be taken by a vote given in writing, provided no Member Lines objects to such manner of voting.

(vii) Minutes shall be written at all meetings. They shall be signed at such meetings by all the Member Lines present, and minutes so written and signed shall stand as a true record of the proceedings, and shall be considered final and forming part of the Agreement or Rules unless the contrary is expressly recorded. ✓

(f) ELECTION OF CHAIRMAN, DEPUTY CHAIRMAN, ARBITRATORS AND DEPUTY ARBITRATORS.

At each March General Meeting the Member Lines present shall elect a Chairman whose term of office shall be from the October General Meeting of that year until the next October General Meeting. The Chairman with two other Principals, who shall also be elected at the March General Meeting and whose term of office shall be concurrent with that of the Chairman, shall adjudicate in complaints, claims or disputes among the Member Lines. At the same time three other Principals will be elected to act as Deputy Chairman and Deputy Arbitrators for the same period. ✓

(g) COMMITTEES.

Permanent or temporary Committees may be established by unanimous agreement. Unless the contrary is expressly stated their findings shall be recommendatory only and shall be binding on the Member Lines only when unanimously agreed by the Member Lines. ✓

(h) ENFORCEMENT OF AGREEMENT IN UNITED STATES AND CANADA.

Regulation of matters, other than the fixation of rates and commission, relating to the operation and enforcement of this Agreement in the United States and Canada shall be governed by the Trans-Atlantic Passenger Conference, with headquarters at New York. Resolutions of the Trans-Atlantic Passenger Conference, however, are not binding upon the Member Lines, if opposed to, or in contradiction with, the provisions of this Agreement. ✓

ARTICLE 4

PASSAGE FARES

(a) PASSAGE FARES.

The basic minimum rates for all ships, all classes, shall be established by unanimous agreement of the Member Lines according to the factors of age, size and speed. A Member Line may quote rates higher than those agreed upon, but no lower rates may be applied except by agreement.

(b) SPECIAL RATES.

Special rates may not be quoted unless with the previous assent of all Member Lines.

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Agreement No. 7840 - Page 9

ARTICLE 5FREE OR REDUCED RATE PASSAGES

The only free or reduced rate passages recognized by the Member Lines are those set out in Annex 1 attached hereto and made part of the Agreement. Within seven days of each departure all free or reduced rate passages granted shall be tabled with the Secretary by the Member Line concerned, with full particulars of the person to whom the concession has been accorded, and the grounds on which it was made. This information will be circulated weekly by the Secretary to the Member Lines.

Free or reduced passages shall not be given to press representatives, shippers or brokers, or to anyone with the object of obtaining other passengers or business of any kind, or in recognition of advertisements.

ARTICLE 6RATES OF COMMISSION

(a) Rates of Commission and Handling Fees which Member Lines may pay to their General Agents or Sub-Agents shall be established by unanimous agreement of the Member Lines.

(b) GENERAL AGENTS' REMUNERATION. A Member Line may remunerate a General Agent acting as General Agent solely for such Member Line by salary, allowance or otherwise as it desires.

(c) GENERAL AGENTS ACTING FOR MORE THAN ONE MEMBER LINE. General Agents acting as such for more than one Member Line may receive only the General Agents' scale of commission except as may be agreed among the Member Lines concerned.

(1) TABLING LISTS OF AGENTS. The Member Lines shall table with the Secretary for circulation to all Member Lines their lists of General Agents entitled to receive General Agency commission, and, for confidential record, their lists of Agents entitled to receive Sub-Agency commission, and no commission or other allowance in respect of passenger bookings may be made to any person or organization whose name does not appear on the lists tabled with the Secretary except that (i) commission not to exceed the General Agents' scale of commission may be paid on a reciprocal basis to steamship lines which are initiating carriers in connection with through transportation originating outside of the United States and Canada on the portion of the through transportation provided by the Member Line concerned, and (ii) commission not to exceed the Sub-Agency scale of commission may be paid on a reciprocal basis to airlines having arrangements with a Member Lines for the interchange of trans-Atlantic passenger traffic on tickets or exchange orders issued by or transferred from such airline.

ARTICLE 7GENERAL AGENCIES FOR PASSENGER TRAFFIC

GENERAL AGENTS FOR PASSENGER TRAFFIC may be appointed at the following places:

- (a) Capitals of Countries or self-governing States within the territory defined in Art. 1(b) (1).

Exhibit 2

Agreement No. 7840 - Page 10

Article 7 (Cont'd.)

- (b) Places at which any other Member Line maintains its own office within the territory defined in Art. 1(b) (i).
- (c) Ports of call of ships in the Atlantic services of the Member Lines.
- (d) Other places as may be agreed.
- (e) At any place in the United States, Canada and Newfoundland at which another Member Line maintains its own office, or elsewhere, as may be agreed.

General Passenger Agency representation is limited to one General Agent at each of the approved places, except as may be otherwise agreed. A Member Line shall not appoint a General Agent for passenger traffic at places where it maintains its own office.

ARTICLE 8ARBITRATION

All Member Lines agree that any dispute, complaint and/or claim between any of them, or between any one or more of them and the rest of them arising under this Agreement shall be settle by arbitration.

(a) Particulars of the matter on which arbitration is requested, and also claims for damages, if any, incurred thereby, must be lodged in writing by the Principals of the complaining Member Line or Lines with the Secretary of the Conference, stating in detail the nature, and also particulars of the complaint, claim, or dispute. Such communication shall as to any Member Line be deemed properly served if sent by post prepaid in a registered letter to the office of the Secretary.

(b) The Secretary on receipt of such a letter will circulate it simultaneously to all Member Lines.

The Member Line or Lines complained of are required to despatch within fourteen days to the Secretary an answer to the allegations made, which reply, or replies, will be circulated simultaneously by the Secretary to all Member Lines.

The Member Line or Lines preferring the complaint or claim may, if they so wish, submit a counter-statement to the reply of the Member Line or Lines complained of, but such counter-statement must be lodged with the Secretary within ten days after the receipt of the reply of the Member Line or Lines complained of.

Although a period of ten days is provided within which a counter-statement may be communicated by the complaining Member Line, notice of intention to lodge such counter-statement must be communicated by telegraph to the Secretary by the complaining Member Line withing three days after receipt of the reply of the Member Line complained of.

(c) Should, however, the complaining Member Line, after seeing the reply of the Member Line complained of, not wish to pursue further the complaint and/or claim, they must notify the Secretary immediately by telegraph, so that further Arbitration proceedings may be abandoned.

Exhibit 2

Agreement No. 7840 - Page 11

Article 8 (Cont'd.)

(d) In the absence of advice from the complaining Member Line that the complaint and/or claim is to be withdrawn, the Secretary, after due time to permit of the receipt of a counter-statement, as foreseen under Section (b) above, will immediately transmit to the Court of Arbitrators, as provided in Section (f) hereunder, the several statements in his possession.

The Arbitrators so appointed may, if they so desire, call for further statements from the Member Lines at issue, the complaining Member Line, the Member Line complained of and/or the Arbitrators may also ask the Secretary to investigate the complaint and/or claims such investigation to be carried out at the point where the complaint originated, or elsewhere, as may be considered necessary.

The result of the Secretary's investigations shall be communicated by him in writing to the Arbitrators, and if the latter so desire, the Secretary shall appear before them to afford any further information that they may desire.

The evidence so afforded by the Secretary shall not be communicated to the Member Lines except at the discretion of the Arbitrators, and then only when they are making their award.

The Member Line and/or Agent against which the complaint or claim is preferred shall afford the Secretary every facility for carrying out such investigation as he may be called upon to make.

(e) Any Member Line may associate itself with complaints or claims that may be lodged, and may submit evidence supporting the statement of the complaining Member Line or the statement of the Member Line complained of.

(f) The Court of Arbitrators referred to in Section (d) shall consist of the Chairman for the time being of the Conference, and the two other Principals elected at the General Meetings. If the Court so constituted should include the representative of the complaining Member Line or the representative of the Member Line complained of, such representative shall not act as a member of the Court of Arbitrators. He will be replaced by another Principal to be appointed by the remaining members of the Court.

In the event of the Court of Arbitrators so appointed being unable to reach a unanimous decision on the complaint, claim, or dispute before them, they shall have power to select an Umpire, whose vote shall determine the finding of the Court of Arbitrators.

The Umpire shall be selected by the Arbitrators so appointed from among the Principals of the Member Lines, with the proviso, however, that the representatives of the complaining Member Line, or the Member Line complained of, shall not be available for selection.

The decision of the Arbitrators shall be communicated in writing to the Secretary within the following periods of time from the date on which statements are lodged, or if a counter-statement is lodged, then from the date on which such counter-statement is lodged with the Court of Arbitrators.

Exhibit 2

Agreement No. 7840 - Page 12

Article 8 (Cont'd.)

- (i) Within ten days if no investigation on the part of the Secretary is called for by the Arbitrators, and a unanimous decision on the part of the Arbitrators appointed can be reached without the intervention of an Umpire.
- (ii) Within fourteen days if the intervention of an Umpire is called for, but no investigation on the part of the Secretary is required by the Arbitrators and/or the Umpire.
- (iii) Within sixty days if investigation on the part of the Secretary is required by the Arbitrators and/or the Umpire.

(g) Any expenses incurred by the Court of Arbitrators or the Umpire will be borne by the Conference.

(h) The damages for infringements of this Agreement shall be not less than £20 (sterling) nor more than £1,000 (sterling) for each breach of this Agreement on the part of a Member Line.

The Arbitrators shall take into consideration whether from the circumstances disclosed it appears that proved breaches are isolated offenses, or whether they are incidents in a systematic violation of this Agreement, and shall impose damages accordingly.

For a breach of this Agreement by any Agent, the damages shall be not less than £10 (sterling) nor more than £200 (sterling) for each infringement.

Any damages imposed on any Member Line or any Agent shall be remitted to the Secretary within ten days of the notification of an award.

In the case of an Agent failing duly to pay the amount of any damages awarded against him, he shall ipso facto be disqualified from acting in any capacity for any Member Line, and each Member Line undertakes not to employ him, and if continued as Agent by any Member Line or reinstated without the consent of all Member Lines during the continuance of this Agreement, it shall constitute a breach hereof by the Member Line employing, or reinstating him.

Each Member Line hereby agrees that the amount of any damages imposed upon them by the Arbitrators, as above provided, shall be treated as the liquidated and ascertained damage for the breach of this Agreement complained of, and not in the nature of a penalty or under any circumstances be regarded otherwise than as the true and ascertained damage resulting from the breach, and each Member Line hereby irrevocably declares itself finally stopped from raising any contrary contention.

The Arbitrators, notwithstanding they may have made and published an award, shall have power to reopen, and reconsider it and to hear further evidence, and to make a fresh award provided cause be shown satisfactory to them within three weeks after the award is first made and published. The award of the Arbitrators takes the place of, and is equivalent to, a legal judgment given by the highest instance of any law court, against which all right of appeal is exhausted, and it is expressly understood that all Member Lines relinquish all and every right to employ against the award given any legal means of whatever name or description such legal means may be.

Exhibit 2

Agreement No. 7346 - Page 13

Article 8 (Cont'd.)

(1) Although the foregoing is accepted by all parties as the normal and regular procedures for the settlement of disputes, it is agreed that any Member Line bringing forward a complaint or claim has the right to nominate its own Arbitrator outside of the Court of Arbitrators as foreseen in para. (f) above or even outside the Conference. The Member Line or Lines complained of shall also appoint their Arbitrator from outside or inside the aforesaid Court of Arbitrators. The two Arbitrators so selected shall appoint an Umpire of their own choosing should they find it impracticable to reach a unanimous decision. The decision of the said Arbitrators or Umpire so appointed shall be final and binding and beyond which there is no redress or further appeal. All other clauses of this Article except the first three paragraphs of section (f) remain applicable to this form of arbitration.

ARTICLE 9MISCELLANEOUS

(a) RULES UNDER AGREEMENT. The Conference may adopt Rules in conformity with this Agreement to govern the Member Lines in the sale of transportation and in the handling of their passenger traffic and for the guidance of themselves and their General Agents and Sub-Agents. Rules so adopted are binding on the Member Lines and additions to, or alterations in, such Rules may be made only with the unanimous agreement of the Member Lines. Any such Rule or alteration thereof which constitutes an understanding subject to the provisions of Section 15 of the United States Shipping Act, 1916, as amended, shall not be made effective until it has been approved by the United States Maritime Commission.

(b) NOTICES UNDER AGREEMENT AND RULES. Where in the Agreement or Rules any period of notice is provided such notice shall be given in writing and shall commence on the date of receipt by the Secretary, who when circulating the notice will advise all Member Lines of the date on which it is received and the date on which it expires.

(c) AMENDMENTS TO AGREEMENT. All alterations in, and additions to, this Agreement are valid and binding upon the Member Lines only when all of them have given their written consent.

(d) READING OF AGREEMENT. In case of any difference of opinion as to the interpretation of any of the provisions of this Agreement or of the Rules adopted thereunder, not only the wording, but more especially the spirit of the Agreement or Rules is to be taken into consideration and this understanding is to be accepted in all decisions by the Member Lines or by the Arbitrators.

(e) OBSERVANCE OF AGREEMENT. As long as this Agreement is in force no Member Line shall be allowed to advertise or quote rates or apply conditions other than those provided for in this Agreement, even for sailings subsequent to its expiration.

(f) CHARTERED SHIPS. Member Lines chartering any of their ships to outside operators must include in the charter party a clause binding the charterers and/or agents to comply with any agreement by which the Member Lines would be bound if doing the business themselves.

Exhibit 2

Agreement No. 7840 - Page 14

Article 9 (Cont'd.)

(g) DELIBERATIONS CONFIDENTIAL. The Member Lines bind themselves not to permit any communications concerning the proceedings, or resolutions, of the Member Lines to be given to uninterested third persons without the unanimous consent of the Member Lines. As an exception press announcements may be made, but only with the unanimous consent of the Member Lines. The deliberations of the Conference, and all Conference documents circulated to the Member Lines shall be regarded as private and confidential, and shall not be communicated to outside parties, including Agents.]

(h) SUBSIDIARY AGREEMENTS. Any subsidiary agreements (i) in relation to the North Atlantic passenger business between any of the Member Lines parties to this Agreement and (ii) between one or more of the Member Lines parties to this Agreement and one or more Airlines for the interchange of trans-Atlantic passenger traffic, shall be tabled for the information of all Member Lines and shall not contain any conditions that are contrary to this Agreement. The Member Lines may agree upon a uniform form of agreement to be entered into with Airlines to be executed by any Member Line in its individual discretion, relating to arrangements for each other's transportation either separately or on a combined sea/air basis, reciprocal payment of commissions, methods of settlement, etc., and providing generally for the procedures to be followed and the responsibilities to be assumed. Requirements of Section 15 of the United States Shipping Act shall be complied with as regards all such agreements within the purview of that Section.

(i) COMPLIANCE BY LINES. The Member Lines shall in good faith abide by and comply with this Agreement and the Rules adopted thereunder in complete harmony with the spirit as well as the letter thereof, and shall assume responsibility for similar compliance by their respective employees.

Each Member Line shall deposit with the Secretary a promissory note for U. S. \$25,000 or such other instrument as the Member Lines may agree to approve as an undertaking for the faithful performance of the conditions of this Agreement, and to meet any possible award rendered in accordance with Article 8 hereof.

The sum shown in the instrument so deposited shall be considered the amount of liquidated damages and be entirely forfeited, if the Line which deposited the instrument withdraws from this Agreement before the expiration of the agreed period of notice, or, if it resorts within such period of notice to any actions which render the continuance of this Agreement impossible, and which are, therefore, to be considered equivalent to an undue withdrawal from this Agreement.

The promissory notes or other similar approved instrument will not be returned to the Lines before six months after the termination of this Agreement, or until all claims that have arisen against them have been settled.

(j) COMPLIANCE WITH LAW. This Agreement, and every modification thereof, is subject to approval in accordance with the provisions of Section 15 of the U. S. Shipping Act, 1916, as amended, and it shall not be carried out in whole or in part prior to such approval. It is the intent of the parties that all action under this agreement shall be in conformity with said Act. Copies of all minutes and true and complete memoranda record of all agreed action which is not recorded by minute shall be furnished

Exhibit 2

Agreement No. 7840 - Page 15

Article 9 (Cont'd.)

promptly to the Governmental Agency charged with the administration of Section 15 of the U. S. Shipping Act, 1916, as amended, also all fares, charges and classification and/or rules and regulations governing the application thereof adopted by the parties pursuant to this Agreement and recorded in the tariffs of the Conference or of the individual members thereof and all amendments thereto and reissues thereof. In the case of denial of membership the record vote of the Member Lines together with a full and complete statement of the reasons therefor will be furnished promptly to such governmental agency. Changes in the membership of the Conference and disbandment of the Conference shall not become effective until advice thereof has been addressed to such governmental agency. In the case of withdrawal of a Member Line, such advice shall include information as to whether the basic conference agreement is continued.

We, the parties to the attached Atlantic Passenger Steamship Conference Agreement, hereby append our signatures:-

ANCHOR LINE LIMITED (ANCHOR LINE)

(Sgd.) Louis G. Carozzi

CANADIAN PACIFIC STEAMSHIPS LTD.
(CANADIAN PACIFIC)

(Sgd.) J. C. Patteson

COMPAGNIE GENERALE TRANSATLANTIQUE
(FRENCH LINE)

(Sgd.) P. de Malglaive

CUNARD WHITE STAR LIMITED (CUNARD WHITE STAR)

(Sgd.) Percy E. Bates

DONALDSON ATLANTIC LINE LTD.
(DONALDSON ATLANTIC LINE)

(Sgd.) Normal P. Donaldson

FURNESS, WITTH & CO. LIMITED (FURNESS LINE)

(Sgd.) Wm. Everall

Gdynia AMERYKA LINIE ZEGLOWOWE S. A.
(GDYNIA AMERICAN LINE)

(Sgd.) M. Plinine

H.V. NEDERLANDSCH-AMERIKAANSCH STEOMVAART-
MAATSCHAPPIJ (HOLLAND AMERICA LINE)

(Sgd.) F. C. Bouman

DEN NORSKE AMERIKALINJE A/S -
(NORWEGIAN AMERICA LINE)

(Sgd.) Hans Chr. Henriksen

A.B. SVENSKA AMERIKA LINIEN
(SWEDISH AMERICAN LINE)

(Sgd.) Axel Johnson

UNITED STATES LINES COMPANY
(UNITED STATES LINES)

(Sgd.) Tarleton Winchester

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*DET ØSTASIATISKE KOMPAGNIE
(THE EAST ASIATIC COMPANY, LTD.)

(Sgd.) Rasmus Hansen

*MOORE-McCORMACK LINES, INC.
(AMERICAN SCANTIC LINE)

(Sgd.) L. E. Archer

*AMERICAN EXPORT LINES, INC.

(Sgd.) J. F. Gahan, Vice President

*AMERICAN PRESIDENT LINES, LTD

(Sgd.) Hugh Mackenzie

*Signatories to Agreement 7840 recorded on separate copies filed with Division of Regulation.

Exhibit 2

ANNEX 1

TO ATLANTIC PASSENGER STEAMSHIP CONFERENCE

FREE OR REDUCED RATES AUTHORIZED UNDER
ATLANTIC PASSENGER STEAMSHIP CONFERENCE AGREEMENT

1. PERSONAL.

Principals of the Lines may, on purely personal grounds, grant free or reduced rate passages. Particulars of any such concessions to be reported to the Conference Secretary within a week of passenger's embarkation. The spirit of this clause is understood to be that reductions shall not be granted on personal grounds where the business is competitive.

2. GOVERNMENT OFFICIALS.

Principals of the Lines are at liberty to grant free or reduced rate passages to Government Officials, any such concessions to be reported to the Secretary within one week of passenger's embarkation. The spirit of this clause is understood to be that reduction shall not be granted where the business is competitive.

3. RAILROAD EMPLOYEES.

(1) CANADIAN RAILROAD EMPLOYEES: Permanent Canadian Railroad employees and their wives and dependent children under 18 years of age, on production of certificate from the Railroad Company, may be allowed a reduction of 25% off current one-way or round trip ocean rates. Lawyers, doctors and other persons associated with a Railroad on a retainer basis, not devoting their entire time to the Railroad with which associated, are not entitled to this reduction. No commission payable.

(Note: See 'Commentary' at the end of provision (11))

(11) UNITED STATES RAILROAD OFFICERS: United States Railroad Officers and their wives and dependent children under 18 years of age, on presentation of request from responsible officers (where such railroads grant reciprocal privileges), may be allowed a reduction of 25% off current one-way or round trip ocean rates. Lawyers, doctors and other persons associated with a Railroad on a retainer basis, not devoting their entire time to the Railroad with which associated, are not entitled to this reduction. No commission payable.

This reduction may also be granted in the discretion of any Line to an employee of a Railroad Company and his wife and dependent children under 18 years of age upon the written request of a responsible officer of the Railroad concerned.

(Commentary: It is understood that salaried officers and employees of Terminal Railroads, serving passenger terminals, shall be considered as officers and employees of the Railroads owning and/or controlling such terminals, and may be accorded the above reduction on the written request of a responsible officer of one of the Railroads owning and/or controlling such terminal. No commission payable. It is understood that the words "officers" and "employees" include, also, pensioned officers and employees (and their wives and dependent children under 18 years of age), provided they are not engaged in any other business and receive free transportation from the Railroad and provided, further, the Railroad grants reciprocal privileges to pensioned employees of the Lines.)

Exhibit 2

Annex 1 (7840) - Page 2

4. (A) GENERAL AGENTS AND THEIR WIVES AND CHILDREN.

A line's own appointed General Agent and the wife and dependent children under 18 years of age of such General Agent may be granted free or reduced rate passages at the discretion of the Line.

(B) AGENTS, RESPONSIBLE CLERKS OF GENERAL AGENTS AND AGENTS AND THEIR WIVES AND CHILDREN.

An agent who has been appointed for at least one year or the responsible clerk of a General Agent or of an Agent dealing with steamship agency work who has been employed continuously by the Agent for at least one year may be granted a reduction of 75% off the minimum rate of the class of the ship by which he travels. The wife and dependent children under 18 years of age of such an Agent or a responsible clerk may also be granted this reduction.

Any reductions granted under the above provisions must be advised to the Secretary for circulation to the Lines within one week of embarkation.

(Commentary: It is understood that a permanent Canadian Railroad salaried employee in Canada (except any railroad traffic department employee who operates a steamship ticket business in a trade name and pays the applicable annual sub-agency fee) who also holds appointment as steamship sub-agent for one or more member Lines, or who acts as responsible clerk to such sub-agent, his wife and dependent children under 18 years of age, shall be eligible only for the reduced rate authorized by provision 3(1) of Annex 1 and not by provision 4(B) above).

5. BLIND PERSONS ACCOMPANIED BY CONDUCTORS.

Provided the application is received from the Braille League for the Blind, the Institute for the Blind, or similar institutions, the total charge for a blind person accompanied by a conductor shall for the two passengers be one and one-half times the rate applicable. A "Seeing Eye" dog accompanying a blind person may be carried free of charge.

6. GOVERNMENT REQUIREMENTS.

Lines are free to grant free or reduced rate passages if required to do so by law or as an obligation under their emigration concessions. Particulars of any such passages are to be reported to the Secretary for circulation to the Lines.

7. PARTY ORGANISERS.

(1) Round Trip. A Party Organiser, who may or may not be an appointed agent, who secures by any one outward sailing a party of 20 or more round-trip passengers by an Atlantic Passenger Steamship Conference Member Line paying full adult fares (two half-fares count as one adult fare) irrespective of the class or classes in which the party may be travelling, and has the party conducted, may be given one free round-trip passage for himself or his representative acting as bona fide party conductor for each group of 20 round-trip full-fare paying passengers, limiting the free

Exhibit 2

Annex 1 (7840) - Page 3

tickets to five bona fide Party Conductors for any one Party Organiser by any one outward sailing. The party must be a bona fide organized party which has been advertised for at least one month prior to sailing date, and all members of the party must be booked and ticketed round-trip.

(2) One-Way. A Party Organiser, who may or may not be an appointed agent, who secures a party of 20 or more passengers paying full adult fares (two half-fares count as one adult fare) travelling

(i) one-way by a Member Line and one-way, also trans-Atlantic, by other means

or

(ii) making an Around-the-World tour, including one-way passage by a Member Line

or

(iii) making a triangular tour North America/Europe/South or Central America, including one-way passage by a Member Line

irrespective of the class or classes in which the party may be travelling and has the party conducted, irrespective of the point at which the tour commences, may be given one free one-way Atlantic passage for himself or his representative acting as bona fide party conductor for each group of 20 full-fare paying passengers, limiting the free tickets to five bona fide Party Conductors for any one Party Organiser by any one sailing. The party must be a bona fide organized party which has been advertised for at least one month prior to date of outward departure, and all members of the party must be booked and ticketed throughout in accordance with sub-paragraphs (i), (ii) or (iii) above.

The foregoing is subject to the following conditions:-

- (a) This concession will not apply to parties for which any special or reduced rate may have been agreed.
- (b) The class of passage which may be accorded to a Party Conductor under this provision is left to the discretion of the Lines.
- (c) No monetary allowance may be made to a Party Organiser in lieu of a free ticket which has no refund value. Conductors' tickets must be endorsed "Free ticket - Party Conductor" and can only be honoured for a bona fide Party Conductor.
- (d) Free passages so granted are to be advised to Conference within one week of passengers' embarkation.
- (e) Commission may be paid to regularly appointed agents, but not to Party Organisers who are not agents.

Exhibit 2

Annex 1 (7840) - Page 4

- (f) In connection with parties travelling only one way by a ship of a Member Line, documentary evidence to be produced regarding travelling the other way by other means.
- (g) When the voyage is by a Member Line the party must be booked and ticketed on any one sailing.

Exhibit 3

TRANS-ATLANTIC
PASSENGER STEAMSHIP
CONFERENCE

D-2
SHEET 2

RULES

PASSAGE FARES AND RATES OF COMMISSION

.

D-2.—FREE OR REDUCED RATES

- (e) AGENTS, RESPONSIBLE CLERKS OF GENERAL AGENTS AND AGENTS AND THEIR WIVES AND CHILDREN—An Agent who has been appointed for at least one year or the responsible clerk of a General Agent or of an Agent dealing with steamship agency work who has been employed continuously by the Agent for at least one year, may be granted a reduction of 75% off the minimum one-way or round-trip rate of the class of the ship by which he travels. The wife and dependent children under 18 years of age of such an Agent or a responsible clerk may also be granted this reduction.

Any reductions granted under the above provisions must be advised to the Secretary for circulation to the Lines within one week of embarkation.

(No commission payable [*S.C. Minute 92, October 7, 1948*].)

(*Commentary:* It is understood that a permanent Canadian Railroad salaried employee in Canada [except any railroad traffic department employee who operates a steamship ticket business in a

Exhibit 3

trade name and pays the applicable annual sub-agency fee] who also holds appointment as steamship sub-agent for one or more member Lines, or who acts as responsible clerk to such sub-agent, his wife and dependent children under 18 years of age, shall be eligible only for the reduced rate authorized by clause (c) (i) of Rule D-2 and not by clause (e) above.)

* * * * *

SHEET 4

(h) PARTY ORGANISERS.

- (1) *Round-Trip where party travels by Member Lines in both directions.*—A Party Organiser, who may or may not be an appointed agent, who secures a party of 20 or more round-trip passengers by an Atlantic Passenger Steamship Conference Member Line paying full adult fares (two half-fares count as one adult fare) irrespective of the class or classes in which the party may be travelling, and has the party conducted, may be given one free round-trip passage for himself or his representative acting as bona fide party conductor for each group of 20 round-trip full-fare paying passengers, limiting the free tickets to five bona fide Party Conductors for any one Party Organiser by any one sailing. The party must be a bona fide organised party which has been advertised for at least one month prior to sailing date, and all members of the party must be booked and ticketed round-trip.
- (2) *Round-Trip, Round-the-World and Triangular Tours where one-way crossing by Member Line.*—A Party Organiser, who may or may not be an appointed agent, who secures a party of 20 or more passengers paying full adult fares (two half-fares count as one adult fare) travelling

Exhibit 3

- (i) one-way by a Member Line and one-way, also trans-Atlantic, by other means

or

- (ii) making an around-the-world or a triangular tour, including one-way passage by a Member Line

irrespective of the class or classes in which the party may be travelling and has the party conducted, irrespective of the point at which the tour commences, may be given one free one-way Atlantic passage for himself or his representative acting as bona fide party conductor for each group of 20 full-fare paying passengers, limiting the free tickets to five bona fide Party Conductors for any one Party Organiser by any one sailing. The party must be a bona fide organised party which has been advertised for at least one month prior to date of outward departure, and all members of the party must be booked and ticketed throughout in accordance with sub-paragraphs (i) or (ii) above.

- (3) *One-Way Low Season*.—A Party Organiser, who may or may not be an appointed agent, who secures a party consisting of 20 or more students and/or teachers or similar groups paying full adult fares (two half-fares count as one adult fare) sailing eastbound or westbound in the appropriate low season period of any year, irrespective of the class in which the party may be travelling, and has the party conducted, may be given one free one-way Atlantic passage for himself or his representative acting as bona fide party conductor for each group of 20 full-fare paying passengers, limiting the free tickets to five bona fide Party Conductors for any one Party Organiser by any one sailing. The party must be a bona fide organised party which has been advertised for at least one month prior to date of outward departure.

Exhibit 3

TRANS-ATLANTIC
PASSENGER
CONFERENCE

RULES

1st REVISE
E-2-(b)
SHEET 1

E-2.—SUB-AGENCIES

* * * * *

5. *Lines Represented*

The agent is prohibited from booking passengers for any steamer not connected with the fleets of any of the member Lines which is operated in a trans-Atlantic service competitive with such Lines, or from representing in any capacity any steamship company operating a steamer in such competitive service, unless written permission to do so is first obtained from such Lines through the Secretary of the Trans-Atlantic Passenger Conference. He is also prohibited from selling passage tickets, orders or similar documents so held in trust, under false representations as to the Line, vessel, or route by which a passenger is to be transported.

The agent is prohibited from acting or advertising himself as agent for, or as entitled to do business for any of the member Lines he does not represent by direct appointment; nor may he sell to another agent for any of the member Lines tickets, orders or similar documents, held in trust by him, of a Line which such other agent does not represent.

Original approved June 2, 1933 as Conference Agreement No. 120-2-1, and modified by 120-71 approved April 5, 1946.

Serial No. 17

Issued July 25, 1950

Exhibit 3

TRANS-ATLANTIC
PASSENGER STEAMSHIP
CONFERENCE

RULES**AGENCIES**

E-6
SHEET 1

E-6—ANNUAL SUB-AGENCY FEES

- (a) **Fees** — An annual sub-agency fee shall be charged for each fiscal year beginning April 15, the amount thereof to be based on the undernoted territorial schedule, and shall be collected by the Secretary from all sub-agencies in the United States and Canada, ticket-holding and non-ticket-holding, not specifically exempted from the payment of such fees. In the event any sub-agency fails to pay its annual fee in accordance with this Rule E-6 prior to April 15 in any year, the Secretary shall thereafter promptly give notice of such failure to each member Line, and upon receipt of such notice each member Line that has in effect a Sub-Agency Appointment Agreement with such sub-agency shall take all measures necessary to effectuate the termination of such Agreement.

Sub-Agencies appointed between April 15 and October 14 of the fiscal year shall pay the full annual fee chargeable; sub-agencies appointed between October 15 and January 14 of the fiscal year shall pay one-half of the annual fee chargeable; sub-agencies appointed between January 15 and April 14 of the fiscal year shall pay the full annual fee chargeable, which payment shall be applicable to the remaining period of such fiscal year and to the full succeeding fiscal year subject to any adjustment that may be necessary.

(A) In United States

- (1) All sub-agencies within the corporate limits of the five boroughs of New York City \$40.00
- (2) All sub-agencies within the corporate limits of the cities of Boston, Chicago, Philadelphia, Los Angeles and San Francisco, and with such suburban areas of these cities as may be agreed upon by the resident General Agents \$35.00
- (3) All sub-agencies in cities of the United States having a population of 400,000 or more and all those within the suburban areas of such of these cities that have a population of 500,000 or more (see asterisk*) as agreed upon by the resident General Agents....\$25.00

Atlanta, Ga.
•Baltimore, Md.
•Buffalo, N. Y.
•Cincinnati, Ohio
•Cleveland, Ohio
Columbus, Ohio
•Dallas, Tex.
•Denver, Colo.

•Detroit, Mich.
•Houston, Tex.
Indianapolis, Ind.
Kansas City, Mo.
Memphis, Tenn.
•Milwaukee, Wis.
Minneapolis, Minn.
Newark, N. J.

•New Orleans, La.
Phoenix, Ariz.
•Pittsburgh, Pa.
•St. Louis and County, Mo.
•San Antonio, Tex.
•San Diego, Calif.
•Seattle, Wash.
•Washington, D. C.

- (4) All sub-agencies in cities of the United States having a population of from 250,000 to 400,000 (see list below) not included in paragraph (3), and all those in places outside of the five boroughs of New York City but within a radius of 25 miles of Columbus Circle \$20.00

Akron, Ohio
Birmingham, Ala.
Dayton, Ohio
El Paso, Tex.
Fort Worth, Tex.
Louisville, Ky.

Miami, Fla.
Norfolk, Va.
Oklahoma City, Okla.
Omaha, Neb.
Portland, Ore.
Rochester, N. Y.

St. Paul, Minn.
Tampa, Fla.
Toledo, Ohio
Tulsa, Okla.
Wichita, Kan.

*Exhibit 3***E-6.—ANNUAL SUB-AGENCY FEES (Continued)**

- (5) All sub-agencies in cities of the United States having a population of from 25,000 to 250,000\$15.00

• • • • •

Exhibit 3

E-19.—JOINT CONFERENCE CIRCULARS

- (a) Joint circulars to sub-agencies shall be issued for member Lines by the Secretary on matters duly authorized relating to:
- (1) Changes in commission to sub-agencies.
 - (2) Changes in minimum rates affecting all member Lines.
 - (3) Changes in Rules.
 - (4) Government laws or regulations affecting United States or Canadian immigration, passport or visa requirements.
 - (5) Such other special subjects as may be unanimously agreed upon.
- (b) When a joint circular is to be issued, member Lines shall not issue individual circulars on the same subject prior to the issuance of the joint circular by the Secretary. Member Lines may, however, issue their own individual circulars simultaneously with or after the issuance of the joint circular.
- • • • •

(Exh. 7)

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Exhibit 7



44 43
AIRLINES STEAMSHIP OVERLAND
HOTEL RESERVATIONS TOURS RESORTS

ONE RIDGE ROAD, LYNDBURST, N. J.

WEATHER 9-2100-1

August 9, 1956.

Circulate

Trans-Atlantic Passenger Conference
80 Broad Street
New York 4, New York

Attention: Mr. Joseph Mayper, Chairman and Secretary

Gentlemen:

Several years ago we made application to the Conference, and we can now look back and admit we were not ready for admission to the Conference for full participation.

Our qualifications, however, and experience greatly changed during the past 2 1/2 years. We hold membership at present in IATA, ATC, NTPA, represent Greyhound and many other tour operations.

We are enclosing a resume of our bookings to date for 1956 for various members of the Conference. We are making an effort to further Cruise and European business, but in all fairness to our Travel Agency we must of necessity to survive, push air transportation for which we are duly accredited and receive proper commission.

We would certainly appreciate your cooperation in circulating our present position to the member lines, and will be happy to fill out any further resume application.

* Summary: JAN 6 August 1956
14 passengers 6 Lines, 7 years
sales \$4,504.70.

Very truly yours,

Manuel J. Oibbs
MANUEL J. OIBBS
OIBBS TRAVEL BUREAU

NJO:ab
enclosure

Exhibit 8

WORLD-WIDE TRAVEL SERVICE • TOURS • CRUISES • AIR AND STEAMSHIP TICKETS

UNITED *Travel* AGENCY

INCORPORATED

*"A Service without a Service Charge"*Main Office
WASHINGTON, D. C.

Cable Address "USTRAVELAG"

Branch Office
NEW YORK, N. Y.

March 21, 1951.

Southern Building
807 15th STREET, N. W.
WASHINGTON 5, D. C.

STerling 5420

Agents in
Principal Cities
Throughout WorldAir, Rail and
Steamship Tickets
at Tariff FaresDomestic and
International
Travel ServiceEscorted
All-Expense
ToursPrescreened
Independent Travel

Vacation Suggestions

Resort Hotel
Reservations

Travelers Checks

Trio Insurance

Baggage Insurance

Operators of
Marvel City Tours
of New York City
Capital Tours
of Washington, D. C.

Mr. Joseph Mayper
Chairman and Secretary
Trans-Atlantic Passenger Conference
80 Broad St.
New York, N. Y.

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Dear Mr. Mayper:

Our request for appointment as a sub-agent of the Trans-Atlantic Passengers Conference Lines for our New York office has been on file at the Trans-Atlantic Passengers Conference since December of 1946, and to date no action has been indicated. In this connection I would like to personally seek your cooperation so that favorable consideration may be assured.

Over the past several years our volume of business has been well in excess of \$1,000,000 a year, and a good portion of this has been in first-class trans-Atlantic travel. Naturally it has been necessary for our New York office to route most of this by air as they did not hold Trans-Atlantic Passengers Conference appointments.

As further evidence of our promotional abilities, we are enclosing a copy of our advertisement which appeared in last Sunday's "New York Times" announcing our fourth Charter of the "QUEEN OF PENNULA" for a special sailing over the Memorial Day weekend. Our three previous Charters sailed completely booked to capacity, each with over 600 passengers.

In addition to the above Charters, we are operating the Scholastic Tours to Europe and two special European tours for the American Institute of Architects. Last year we created, planned and executed the "World Cooperation Trip through Europe"

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(Exh. 8)

Exhibit 8

Page 2 - letter to Mr. Joseph Mayper

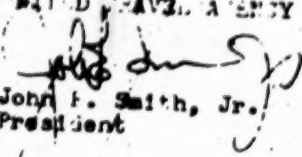
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for the General Federation of Women's Clubs. The booklets prepared by us describing these trips are enclosed for your files.

Now that we are doing business as the United Travel Agency instead of the United States Travel Agency, we presume it will eliminate the major objections to our appointment as stated by the United States Lines, and your reconsideration of our case would indeed be much appreciated. ✓

Yours very truly,

UNITED TRAVEL AGENCY


John F. Smith, Jr.
President

JES:MC

P.S. Our Washington office has been a Conference agent since 1947.

(Exh. 10)

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Exhibit 10

MAR 14 1960

113

EXECUTIVE VICE PRESIDENT
& GENERAL MANAGER U.S.A.
GABRIEL VILLA

Blue Cars

INCORPORATED

ASSOCIATED WITH THE BRITISH ELECTRIC TRACTION CO. LTD.
35 WEST 42nd STREET NEW YORK 36, N. Y.

GENERAL MANAGER IN
EUROPE
KENNETH H. S. FOX

PHONE
OR 4-2133

CABLE ADDRESS
BANCARS
NEW YORK

March 10, 1960

no record

WHOLESALE OPERATORS
OF INTERNATIONAL TOURS
AND TRANSPORTATION

Mr. D. I. Knowles, Secretary
Trans-Atlantic Passenger Steam-Ship Conference
80 Broad Street
New York, N. Y.

Re: Appointment to T.A.P.S.S.C.

Dear Mr. Knowles:

SPECIALISTS IN LUXURY
MOTOR COACH TRAVEL
GROUPS AND PACKAGE TOURS

We are writing to you to ask for our appointment to the Trans-Atlantic Passenger Steam-Ship Conference. For your information, we have been operating in the United States since 1954 as a motor coach carrier and tour operator for Europe primarily. Our parent company, The British Electric Traction, owns 66 motor coach companies having a total rolling stock of over 12,500 vehicles. Among our companies are such well-known names as Birmingham Midland Motor Omnibus Co., Ltd.; Ribbles Motor Service, Ltd.; Sheffield Motors; Southdown Motor Services; and many others. The total subscribed Capital of the B.E.T. is £74,000,000. In addition to maintaining our own motor coaches, a section of which is used exclusively for our American tourists in Europe, we also maintain our own corps of multi-lingual couriers. Consequently, our full-time objectives are devoted towards promoting a large volume of trans-Atlantic travel so that we can keep our coaches rolling, and our skillful couriers as busy as possible. I might add that recently we have promoted tours to parts other than Europe, and that we are receiving an increasing number of requests for Caribbean cruises also.

APPLY
EUROPEAN
P.I.T. SERVICE

CHARTERS

PILGRIMAGES



Within the last few years, we have promoted a great deal of trans-Atlantic business. Our sales already high are increasing day by day. We are approved I.A.T.A. Sales Agents, and hold appointments from all the scheduled airlines. In our role as approved sales agent for I.A.T.A. we have done a great deal to promote sales; it has been of benefit to us to promote air sales because we have always been assured of our commission. We have also received many requests for steam-ship travel but have not pursued sales in that area as strongly as in others, because we are not a member of the T.A.P.S.S.C. Now, that we have expanded considerably, we feel that our position is such that we can really be of benefit to the steam-ship industry, and we are therefore seeking our appointment. From the requests we have received in the past and the many deals we have under negotiation, we feel that we

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(Exh. 10)

BLUE CARS INCORPORATED

Exhibit 10

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Mr. Knowles

- 2 -

March 10, 1960

could certainly give the steam-ship industry a substantial volume of business.

We invite you to visit our offices at 55 West 42 Street, so that we may familiarize you with our operations and sales procedure.

We are also listing some of our references which you may wish to consult. They are as follows:

Mr. James T. Turbayne, General Manager
British Travel Association
660 Fifth Avenue
New York, N. Y. Tele. No. CI 5-4800

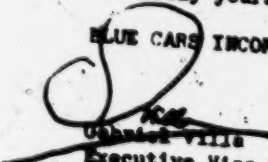
Bankers Trust Company
521 Fifth Avenue at 44 Street
New York, N. Y.
Tele. No. MU 2-7900

Chemical Corn Exchange Bank
One East 41 Street
New York, N. Y. Tele. No. MU 7-4404

We should be very grateful if you would give our appointment your immediate consideration since we presently have many plans in connection with steamship travel which we should like to conclude as soon as possible. We are indeed appreciative of your attention and we look forward to hearing from you soon.

Sincerely yours,

BLUE CARS INCORPORATED


Robert Villa
Executive Vice President
and General Manager

GV:Jan

(Exh. 10)

236a

Exhibit 10

APR 6 1936

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EXECUTIVE VICE PRESIDENT
& GENERAL MANAGER U.S.A.
GABRIEL VILLA

Blue Cars

INCORPORATED

ASSOCIATED WITH THE BRITISH ELECTRIC TRACTION CO. LTD.

55 WEST 42nd STREET

NEW YORK 36, N. Y.

GENERAL MANAGER IN
EUROPE
KENNETH H. S. FOX

PHONE
Office 5-1123

CABLE ADDRESS
BANCARS
NEW YORK

March 31, 1936

WHOLESALE OPERATORS
OF INTERNATIONAL TOURS
AND TRANSPORTATION

Mr. D. I. Knowles
Trans-Atlantic Passenger Steamship Conference
90 Broad Street
New York 4, N. Y.

Dear Mr. Knowles:

SPECIALISTS IN QUARTER
MOTOR COACH TRAVEL
FOR GROUPS AND PACKAGE TOURS

Thank you very much for your letter of March 30, informing us that our request for appointment as a sub-agent is being circulated among your member lines.

In regard to submitting periodic reports on the amount of business done for your lines, I should like to mention that presently--until we do receive our appointment--we are forced to use the airlines...because we do have their appointments, and, consequently, receive our commission. In certain cases, we pass steamship business to other agents who already have your appointment so that they may collect their commission inasmuch as we are not in a position to do so. The agents concerned are, of course, those agents for whom we operate the European land portion on their various tours.

As soon as we receive your appointment we would be free to pursue steamship sales and to proceed with the many plans we have in other way which promise a good volume of business.

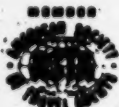
Thanking you for your kind attention, I look forward to a favorable reply in the near future.

Sincerely yours,

BLUE CARS INCORPORATED

Gabriel Villa
Executive Vice President
General Manager

PILOGRIMAGES



GV:jam

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Exhibit 13

JUN 1959

CABLE ADDRESS
PLANNING, NEW YORKTELEPHONE
LIGGETT 3-6225

ROBERTS • REILLY & SONS

172

Travel Agents

120-82 QUEENS BOULEVARD • NEW GARDENS N.Y.

Opposite Borough Hall

AIR AND STEAMSHIP BOOKINGS • HOTEL RESERVATIONS • TOURS • NO SERVICE FEE

Sept. 29, 1959

Donald J. Knowles, Sec'y.
Trans-Atlantic Passenger Conference
30 Broad St.
New York, N.Y.

Sir:

I have just completed reading your address of Sept. 12, given at the AATA Mid-American Chapter meeting, and I have a question to put to you.

Why are we, an agency established for over eight years, still kept on the waiting list for appointment to the TAFC?

Surely, we cannot be expected to promote sea travel for nothing, and this is what we have had to do. We have become discouraged and disgusted by the stock answers given in reply to our letters requesting appointment, such as, "Your request will be passed on to the member lines" and "Wait until additional agencies are needed to cover your area".

To our knowledge, we were the first Travel Agency in the New Gardens-Forest Hills-Pego Park area and we are still waiting. But another agency opened in Forest Hills and received TAFC appointment and more recently still another has done so and also received your favor, or rather the favor of the conference. Is this reasonable? Just? Fair? Quitable?

At present we sell exclusively Air Transportation and are in the habit of trying to please the travelling public by arranging any form of travel. This means giving our steamer bookings away as far as commission is concerned. We shall present the public with a different picture in the future as the conference is forcing us to do, namely talk up air travel and talk down sea travel. This is not the best thing to do but we are left with no alternative, for after all we do have to show a profit and we have never earned a dime for a steamer booking.

Your address was meant to find "New Business" according to the heading given it by "The Travel Agent" and I wish to know how you expect to accomplish this by keeping an active agent "WAITING".

Please excuse the one finger typing, but I wanted to get this out today.
D.D.

Respectfully,
Roberts, Reilly & Sons
Eugene H. Reilly, Mgr.

Exhibit 14

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Ambassador

TRAVEL AGENCIES, INC.

27 WILLIAM STREET, NEW YORK 5, N. Y.

MANHATTAN 2-1160

Cable Address-AMBASSAD

September 17, 1951



Mr. D. Knowles
Transatlantic Passenger Conference
80 Broad Street
New York, N.Y.

Dear Mr. Knowles:

In connection with your call of yesterday regarding a record of the business we gave the members of the Transatlantic Passenger Conference during the past nine (9) years, I submit the following:

During our nine years of business and because of our understanding that we could never be appointed due to our location, we have not devoted the promotional effort to Transatlantic steamship sales that we have to other forms of travel. Consequently our production during this time could not be in any sense typical of our potential. For the same reasons we have never made a continuous record of such sales.

In a previous letter to you, a copy of which was sent to every member as listed a volume of Transatlantic and Mediterranean sales on I.A.T.A. in the vicinity of \$ 350,000.- during 1950 and an equal amount in 1951. I am certain that at least a third or more of this business could have been directed to steamship travel.

We have done a nice business with Turners Bermuda Line and the Indes Reunion Line and a call to their offices would confirm same.

I would like also at this time to mention that we handled the International Conference of Social Work in Toronto this year and that we have been appointed to handle their Convention in Munich (Germany) in May of 1952. We also are negotiating now with the National Health Conference to handle their Convention in Europe in 1952. We also are negotiating with companies like City Service Oil, Mass Life Insurance and Sears Roebuck to handle group movements exclusively for their employees and their immediate families. We feel that group business in the

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Exhibit 14

—190—

off season is the type of business we all need.

We again humbly request that you consider our lack of incentive during the past nine years to develop Transatlantic and Mediterannean business.

We respectfully request an opportunity to prove that an organization such as ours handling the volume we do of international sales can and will produce a satisfactory amount of international steamship business.

Respectfully yours,

AMBASSADOR TRAVEL AGENCIES INC.

/s/ JOSEPH C. NEUFELD

J. C. Neufeld, President

(Exh. 17)

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Exhibit 17

JAN 28 1957

RECEIVED
Cable Address

STARK TRANSPORT, INC.

180 WALL STREET
NEW YORK 5, N. Y.

JOHN STARK DOBBS, President

Circulate

219

January 25, 1957

no record

Trans Atlantic Conference
80 Broad St.,
New York City, N.Y.

Gentlemen:

I have a travel agency at the above location, have been at this address for approximately twelve years and am sorry to say, I have not had the privilege of obtaining any appointment for steamship tickets.

At present, I do have Air Traffic Conference and International Air Transport Association appointments and do approximately \$780,000.00 dollars worth of air tickets per year. I have turned down a number of requests for steamship reservations because I do not make any commission for work involved. In fact, quite often I have persuaded former steamship travellers to try air transportation and proven very successful. However, I would like to be in a position to take care of the steamship travellers needs, as well as all others. Any assistance you may offer will be greatly appreciated.

Thanking you for your kind attention to this matter, I am

Very truly yours,
STARK TRANSPORT INC.

John J. Carley, Jr.
John J. Carley, Jr.
Vice President General Manager

JJC/1

Exhibit 18

—246—

Minutes of Regular Meeting No. 34 Held 12/12/51

• • • • •

Retiring Chairman's Footnote:

SUBJECT: Extract from Sub-Agency Memo No. 431, 9/27/51, issued by Committee on Control of Sub-Agencies, T.A.P.C., New York.

"Voting: Each representative of a Local Committee member present at a meeting shall have one vote which, if desired, may be by secret ballot, and Committee action shall be by unanimous agreement of those present.

In the event an item on the Agenda does not receive unanimous agreement for recommendation to the Committee on Control of Sub-Agencies, the Minute shall record the numbers voting "Aye" and "Nay" and any pertinent information regarding the matter may be submitted to the Committee on Control of Sub-Agencies for such action as that Committee may wish to take."

A review of recent meetings indicates the existence of a "deadlock" as regards appointment of one or more sub-agencies in the Metropolitan Area.

- (a) Five appointments are currently available.
- (b) Voting indicates an 80 per cent and in one case a 90 per cent affirmative vote.

In the opinion of the retiring Chairman the one or two negative votes, resulting in pending applications being de-

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clined under the above quoted "unanimous agreement" clause, is extremely detrimental to the best interests of the majority lines. Further that such negative votes may be cast "on direct instructions" from principals or are actually mischievous rather than cooperative in intent. It is also obvious that the Committee's negative action in these cases is being used to advantage to the fullest possible extent by Trans-Atlantic Air services.

It is, therefore, recommended by the retiring Chairman subject Sub-Agency Memo be reconsidered and modified to permit a majority requirement only, or not more than a 75 per

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cent majority requirement for control of local Committees.

Should such action be declined the present static situation will unquestionably continue for an indefinite period in an area which, due to its continued increase in population, definitely requires additional desirable sub-agency representation.

/s/ G. H. NICKERSON

G. H. Nickerson
Chairman

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COPY OF LETTER READ BY MR. N. L. WITTNER,
ZIM LINE, AT PC MEETING HELD FRIDAY,
APRIL 13, 1956

There is hardly one Conference meeting where the competition of the airlines is not mentioned. We are spending thousands of dollars to lure the passengers away from the air lines with the motto: "Enjoy the trip, go by ship". We all are sending out a lot of printed material to get new customers, respectively getting back the old ones. We even allocate quite an amount of money for hiring a special public relations man to promote our Steamship business. The question now is whether we can do more to secure passenger business and whether our methods to get them are the right ones. To analyze the situation in general, we have to refer to things which are very well known to all of us—in other words—there are no new ideas—but are, in our opinion, necessary for the completion of the whole picture.

There are two important factors that have to be considered in our business. 1—our competitors; 2—our supporters. Or, if we are to clarify them in another way:

- 1—People who are working *against* us—our *competitors*,
and
- 2—People who are working *for* us—our *supporters*.

The main group working against us are, of course, as mentioned before, the airlines. We all agree we have to figure with this competition today, and also in the future. Our aim, therefore, will not, and cannot, be to combat the airlines as such, but to try to lure away business with all legal and decent means at our disposal.

For this purpose we need, of course, the group No. 2, namely our supporters. Our main supporters are, as it is

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very well know, the *Travel Agents*. That we do everything to help them in doing their, or even to say it better, *our work*, is understood by itself.

Wouldn't it be logical for us now, as every other businessman would do, to go out and solicit more supporters? Instead of doing this, we push supporters, who are coming to us and want to work with us and for us, back in telling them: we don't want you. Apparently the opinion still prevails that to work for our Lines is a privilege. This might have been so years ago, when the competition of the airlines was not prevalent. But today, when travelling by air is as common as, let us say, inland travelling by bus or railroad, this idea is absolutely antiquated, and should be done away with.

So, instead of acquiring supporters, we are supporting our competitors.

Let us take a practical case where someone—and we will take it for granted that he was influenced by our promotional propaganda—goes to a Travel Agent and wants to book his passage on a ship. It happens that this Travel Agent is not qualified to book for Conference Lines. Do we really think that a Travel Agent will lose his commission and book this passage with us, because the passenger wants him to do so? As we know the travel trade, it is easy for an eloquent Travel Agent to persuade any passenger to travel by air, in praising the so well-known advantages like: sav-

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ing time; no tips; no change of dress; no seasickness; and last, but not least, the prices which, with the new introduction of the family plan in the dead season, makes airline travel even more competitive than before.

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Every businessman will now ask, what is the reason that an organization, who is in a big competitive fight, will refuse people who have the desire and the possibility to support her, is driving solicitors into the camp of the competition. It seems that the only reason is the fact that several years ago a certain number for the admission of Travel Agents was fixed. It is correct that in the meantime the number was raised, but again a number system was kept. We want you to consider, earnestly, that many years ago the competition of the airlines was not so heavy as it is today. We should, furthermore, take into consideration that much more travelling is done today than many years ago.

Another reason to be considered, is the fact that New York, itself, has quite a higher population than before. The question is now, if the fixed number is so holy that it cannot be touched at all. As we said before, the number has been increased already, and we cannot see any reason why it should not be changed again, if, and when, the need for more Travel Agents, our supporters, arises.

This, of course, does not mean that we shouldn't check thoroughly whether these Agents are morally and financially 100% sound. There is no question that the thorough check-up, which always has been done, should be continued. What we want is to increase the limited number of admissions which, in our opinion, is completely out-dated, and does not show any sign of modern advancement in business-like thinking.

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February 26, 1959

AIR MAIL

CONFIDENTIAL

Mr. Richard M. L. Duffy, Secretary
Atlantic Passenger Steamship Conference
65 Sandgate Road
Folkestone, Kent, England

Dear Mr. Duffy:

Kindly refer to Mr. Roper's Confidential letter dated October 15, 1958 in which we were asked "confidentially to study and report upon the differences between the commissions being paid by IATA in the United States and Canada and those of the T.A.P.C. Lines, also the effect of any differences upon the promotion of traffic." The matter has had the careful attention of the Lines, whose joint report is contained herein.

1. Commissions being paid by IATA in the United States and Canada are set forth in the enclosed "Sales Agency Rules" pamphlet issued by IATA and applicable within the area of Traffic Conference 1 (Western Hemisphere and Islands Adjacent thereto). Although the pamphlet is undated, it is of recent issue and contains on pages 19 to 27 the currently-effective rules relating to commissions and inclusive tours; it has furthermore been indicated that the commission rates on First or Tourist Class transportation are applicable, also, to Economy Class.

2. An airline agent selling air transportation from a point in the interior of the United States or Canada to an interior European Continental airport receives 7% commis-

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sion on the fares of the domestic portions of the trip as well as the trans-ocean portion, i.e., from point of origin to point of destination—despite the fact that the rate of commission for domestic air transportation alone is 5%. A steamship agent booking the same passenger by rail to port of departure and by ship receives, of course, 7% commission on the trans-Atlantic fare. If he is an agent recognized by the Rail Travel Promotion Agency, he will receive commission as outlined in undated RTPA-1 "Compensation Arrangements in Effect on Carriers Members of the RTPA." In general, this means that the RTPA agent will receive 10% commission from participating railroads on the sale of *round-trip* rail tickets from points within the United States to and from a United States or Canadian port, if the passenger is traveling either by sea, or by air to and from a trans-Atlantic destination. Canadian railroads pay this commission to Canadian agents only in case of group bookings (15 passengers or more). In case of a one-way ticket sold to or from the port of departure or arrival in connection with trans-Atlantic transportation either by sea or air and subject to the restrictions contained in RTPA promulgations, a United States and Canadian agent will receive 7% commission from participating railroads. As far as rail transportation in Europe is concerned, basically 7½% commission is paid to agents in the United States and Canada selling European rail tickets.

3. An airline agent selling an inclusive tour received 10% commission on price of tour (See A.C. 310-58 re "Steamship All Expense Tours to Europe," and page 21 of "Sales Agency Rules").

4. Considering the subject from the viewpoint of promotion of traffic, through transportation by air from an

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inland point in the United States or Canada to a European point is booked by an agent with convenience and simplicity. All three legs of the trip are handled as one transaction and one continuous simple form of ticket is used after obtaining complete information from the initiating carrier. The same trip booked by rail and ship requires the agent to apply to three different carriers for the necessary reservations and ticketing, increasing his work load, and sometimes with less commission received. The airline, incidentally, will also arrange hotel reservations on which the agent receives additional commission.

Very truly yours

D. I. KNOWLES
Secretary

Kg
Enc.

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OCT 20 1958

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

JM

October 15, 1958.

CONFIDENTIAL

Dear Sir,

AGENCY COMMISSION

At the meeting of Principals which was held in Monte Carlo on October 9 it was agreed that I should, through you, ask the Trans-Atlantic Passenger Conference confidentially to study and report upon the differences between the commissions being paid by IATA in the United States and Canada and those of the T.A.P.C. Lines, also the effect of any differences upon the promotion of traffic.

Your co-operation in this matter will be much appreciated.

Yours faithfully,

/s/ W. H. ROPER

(W. H. Roper)
Secretary.

[Handwritten notation—Memo to the PTMs—10/22/58]

Mr. Joseph Mayper,
Chairman and Secretary,
Trans-Atlantic Passenger Conference,
80 Broad Street,
NEW YORK 4, N.Y.

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**TRANS-ATLANTIC PASSENGER
STEAMSHIP CONFERENCE
80 Broad Street**

New York 4, N. Y., July 22, 1960

MEMO. to the PASSENGER TRAFFIC MANAGERS:

PROMOTION OF SALES

(Ref: Minute 3919 and Memo. to PTMs.
dated June 21, 1960)

In accordance with Minute 3919, the Committee named therein, met on June 30, 1960 and discussed fully the suggestions contained in Principal's Minute 378 reading as follows:

"PROMOTION OF SALES

"Agreed that the Trans-Atlantic Passenger Steamship Conference be asked to make a positive recommendation, for consideration by Principals at their meeting in October 1960, based on the following lines and embodying details of the controls and regulations they feel necessary:

1. The establishment as a trial of 10% commission for advertised inclusive tours similar to that presently paid by the airlines, restricted to off-season periods and/or
2. Provision for allowing the carrying Lines to defray up to 50% of the cost of folders advertising inclusive tours during the off-season. (It might be necessary to fix a maximum sum which might be paid in respect of any one tour)."

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At the outset of the meeting, it became apparent that unanimity could not be reached on a positive recommendation on both suggestions and each suggestion was then discussed separately.

1. Discussion was had of the total amount of inclusive tour business booked via vessels of the Lines during thrift season periods and it was generally agreed that apart from the summer season periods, the great proportion of such tour business is handled in the fringe periods—shortly before or shortly after the high seasons. It was conceded that thereafter this type of business decreased to a minimum during the winter months, particularly January, February and March. Several varying conjectures were then advanced regarding the expectancy of additional inclusive tour business during the winter periods provided an additional 3% commission was offered Tour operators.

The opinion of a large majority present was that regardless of such an incentive, Tour operators would not advertise, operate, or, if they did so, would not book sufficient numbers of passengers by ship during the winter periods to offset the increased costs to the Lines by the payment of an additional 3% on business presently being booked by ship during the fringe periods of the off-season when a large number of such tours are presented conducted.

A minority view was expressed to the effect that the proposal should be given a trial period after which it could be reviewed and its effectiveness more accurately determined, but the majority were opposed to such trial period and indicate that a more basic appeal should be made to the traveling public.

2. During the discussion of the proposal to defray part of the cost of folders, advertising tours, the thought was

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projected that even with safeguards similar to those in effect for IATA, the overall costs to Lines would far exceed any benefits which could be expected.

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The discussion paralleled that relating to item one and the majority believed that the Lines would simply subsidize folders which are presently being printed and paid for in full by the Tour operators at their own expense without promoting sufficient additional business to compensate such costs.

A compromise suggestion was offered to the effect that the Lines be free to print quantities of "shell" folders which could be furnished Tour operators for imprinting but it was unanimously considered that the larger wholesalers operating tours would not utilize such a folder for several reasons, one of which being that they would lose their identity and consequently such a folder would be impractical.

3. The consensus of opinion of the large majority of your Committee, is that, the granting of an additional 3% to Tour operators and/or defraying of any part of literature to be issued to such operators is economically unsound, will simply be absorbed in the profits of the tour operators and most importantly will not help in the promotion of sales.

Therefore, taking into consideration the request of "Principals" for a positive recommendation on either or both of the above items, your Committee cannot conscientiously make a recommendation favoring either of the above proposals.

4. There is, however, a strong feeling in your Committee that to develop an effective campaign for promotion of off-season traffic, some method must be found to offset the

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special low fares offered by air charters. GO 5336, dated June 28, 1960, shows that between January 17 and April 9, 1960, the airlines operated eastbound, 129 charter flights carrying 10,214 passengers.

Your Committee suggests that the Passenger Traffic Managers may wish to authorize your Committee to re-convene to study the desirability of establishing a round trip excursion rate by ship only, during a limited winter period, e.g., January, February and March, as a means of promoting off-season business, and endeavor to reach agreement for positive recommendation on such a proposal for consideration of the Lines.

H. G. Craddock
G. L. Bowen
J. Lemaire
H. N. Dunwoody
E. I. Liman
G. F. Serafini
F. Bertolotti
E. T. Braun
C. F. Morgan

• • • • •
The above subject will be docketed for the next Passenger Traffic Managers' meeting.

D. I. KNOWLES
Secretary

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**Excerpt from Rotterdam's Letter A-AZ-1055
of March 13, 1956**

**Re: Atlantic Conference Meeting, Paris,
Feb. 23-March 1, 1956**

COMMISSION

Discussion of this subject revealed that there was an overwhelming majority of Lines in favour of a uniform commission of 7% all year all classes although some Lines made their agreement conditional upon an increase in revenue. Since the matter of a revision of rates to provide the additional revenue desired is referred to the Sub-Committee Meeting in Cannes, it was suggested that the subject of commission should also be dealt with at that meeting.

In commenting on this particular matter, we shall be glad if you will advise us as to the date which in your opinion is most suitable to put such a uniform percentage into effect. Since an increase in off-season fares, if agreement can be reached also in this respect, is not likely to offset the decrease in off-season commission, such a percentage should in our opinion not be made effective until the beginning of the 1957 summer season when it will mean an increase both in percentage and in revenue to agents.

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Excerpt of New York's letter P-9873 of March 22, 1956

Re: Atlantic Conference Meeting, Paris,
Feb. 23-March 1, 1956

COMMISSION

We have noted with interest that a majority of the Lines were in favor of a uniform commission of 7% all year, for all classes. We feel that whatever the Lines do in connection with commission now should be coupled with an agreed increase in Rates, to be announced to the agents simultaneously.

Since the Mediterranean Lines have of late been giving increasing attention in the off-season to the promotion of cruises or cruise-like voyages as a device to promote their regular Mediterranean voyages, it seems to us that a uniform commission of 7% must also embrace such cruises or cruise-like voyages. This, in turn, may create a demand for the fixation of a uniform commission to embrace the West Indies trade, as well.

We wish to state emphatically that we do not favor a change in the West Indies commission, and that we maintain the 7% commission prevailing on cruises touching a European or Mediterranean port, as well as all straight transatlantic offerings. The reason we prefer the 10% West Indies commission is that we feel that in this trade we are competing with American resorts and resort traffic, such as Florida, Mexico, etc., where agents earn 10% commission. Therefore, we prefer letting the West Indies commission remain intact.

As to when the new uniform commission of 7% should be effective, we ourselves would prefer that it begin January 1, 1957.

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Excerpt from Rotterdam's letter A-AZ-1679
of September 14, 1956

*Re: INTERNATIONAL CONSULTATIVE COUNCIL
OF TRAVEL AGENTS*

*ABOLITION OF DIFFERENTIATED AGENCY COM-
MISSION*

The I. C. C. T. A. delegation expressed pleasure at the fact that the Lines have been able to abolish seasonal commissions which, it was stated, made the accountancy of agents unduly complicated.

AGENCY COMMISSION

An indication of the desire of agents for a sub-agency commission in excess of the uniform rate of 7% all year all classes adopted at the Principals' Meeting in London in May was already given in a cable from the President of A. S. T. A. and in a letter from the Secretary of the Association of British Travel Agents after the new rate of commission was announced.

At this week's meeting, the I. C. C. T. A. delegation elaborated at great length on the increased cost of business, and in particular the rise of salaries, both in Europe and in the U. S. and Canada, as demonstrated by statistics of the U. S. Department of Labour (Occupational Wage Survey).

Reference was also made to a "Survey of Travel Agency Business" issued by A. S. T. A. We would appreciate if you could let us have copies of both publications.

It was claimed that on the basis of the present rate of transatlantic commission, it would not be possible for agents to

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continue to operate, and a plea was made for revised remunerations as follows:

- a) Point to point bookings: 7%
- b) Increased commission in the U. S. & Canada
- c) Inclusive tours: 10%
- d) All cruises (including those involving a transatlantic crossing) and all roundtrip bookings on voyages including more than four ports: 10%

It was stated by the I. C. C. T. A. delegation that Price, Waterhouse and Co. have been asked to compile a report of the accounts of about 1100 agents in the United States in order to substantiate their case, and it is expected that this report will be completed in a few months time. On the basis of partial information already available, it was claimed that the vast majority of agents are now handling transatlantic business at a loss to themselves and only succeed in continuing to operate thanks to a large volume of tour business for which 10% commission is received.

It was pointed out that tour operators at the present time pay 10% commission to their sub-agents on the cost of the entire tour including ocean transportation and that, in the case of the Atlantic Conference Lines, the difference between the Conference commission and 10% is borne by the tour operator, while the air lines take the full 10% for their account.

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It was also suggested that by lengthening or shortening the summer season, that Atlantic Conference lines could affect the revenue of agents and that, for this reason, prior

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consultation of the agency organization is desirable before any changes effecting their revenue are put into effect.

The question was asked how the Atlantic Conference arrived at a uniform rate of commission of 7% and it was obvious that the conviction prevails in I. C. C. T. A. circles that a rate of 7% was adopted simply because airlines are paying 7% commission, without consideration for the economic needs of travel agents.

It would seem that the concern of I. C. C. T. A. regarding the new level of transatlantic commission springs at least partly from their fear that the growing uniformity in the rate of commission of a number of conferences including I. A. T. A. tends to stabilize this commission at its present level.

In support of their claim for a higher commission, the I. C. C. T. A. delegation drew attention to the services provided by them in respect of supplementary travel arrangements such as connecting transportation, hotel reservations, etc., and criticism was expressed regarding the practice of some air lines to refer passengers to travel agents for such supplementary arrangements only after having completed the transatlantic bookings themselves.

Since other Lines including ourselves have come to the conclusion that the revised rate of commission means additional expenditure in agency commissions payable by the carrier even without raising the level of fares, it is clear that a number of agencies must enjoy benefits from this revised rate.

In view of the higher percentage of seasonal traffic booked in the U. S. and Canada as compared with other parts of the world, it seems logical to assume that North American

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agents are the main beneficiaries of the increased expenditure of the Lines.

Nevertheless, the American representatives of the I. C. C. T. A. delegation were as vociferous as the European representatives in their demands for an increased remuneration, claiming that interamerican travel particularly to Mexico and Hawaii for which 10% commission is paid will provide serious competition for the transatlantic carriers, the more so since the 10% U. S. Transportation Tax will be abolished from October 1.

Mr. Donovan stated that the transatlantic steamship lines should have no hesitation to increase their fares if this should be necessary to provide for an increased agency commission adequate to attract qualified staff for the agents, and it was claimed that with improved economic conditions, the agents would be able to contribute substantially towards the development of transatlantic travel as anticipated by the European Travel Commission.

As most Lines have not yet published their sailing schedules and tariffs for 1957 and the fare increases agreed upon in May for obvious reasons have been given as little publicity as possible, the Lines at the meeting on their part brought these increases to the attention of the I. C. C. T. A. delegation suggesting that they constitute additional revenue also to agents. At the same time, it was pointed out that the steamship Lines cannot indiscriminately increase fares without pricing themselves out of the market, that any increase in operational or promotional cost of the carriers is bound to place them in a precarious position, and that in this respect the Lines themselves are in a difficult position in endeavoring to hold fares down in the face of rising costs.

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The I. C. C. T. A. delegation was also advised that the entire matter would receive the consideration of the Atlantic Conference as a whole, since the delegation attending the meeting was not authorized to take any decisions.

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Excerpt from New York Letter E-747 of Sept. 20, 1956

Re: International Consultative Council of Travel Agents

AGENCY COMMISSION

We are obtaining the "Survey of Travel Agency Business" and will also endeavor to obtain the statistics of the U. S. Department of Labor (Occupational Wage Survey) and expect to send same on to you next week. With all due respect to surveys and research of agency records, it is strange that notwithstanding the protestations of handling transatlantic business at a loss, more and more applications are constantly being received by our agency committee for sub-agency appointments. In the last decade, the scope of agency business has increased tremendously, particularly because of the greatly increased capacity for overseas travel, as provided by air carriers, and most agents have thus been able to supplement their incomes tremendously, and also by the additional outlet now provided for tours. We, therefore, can shed no "crocodile tears" because tour operators pay agents 10% commission, including the ocean transportation, since the profit in such tours are generally regarded very substantial, and the tour operators can well afford to pay the 10%, even though it includes ocean transportation, which is only commissionable at 7%.

The threat of traffic diversion to Mexico and Hawaii we do not take very seriously, since both these areas can pro-

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vide little competition with Europe on the overall picture of cultural interest, diversity of scenery, customs and people, such as Europe offers, and which the American public will continue to demand. Economic self-interest is still the greatest motivating force of the average agent and if he can make more money selling Europe, with its diverse attractions, which he can and does today, we have little fear that we will lose business to Mexico and Hawaii. Nor would we take too much stock in agents "contributing substantially" toward development of transatlantic travel, because experience shows that the Lines have always had to depend on their own advertising to create interest and attract the customer.

All this does not mean that we do not recognize that the agents generally have had an increase in costs, but not comparative in any degree with that of the carriers themselves.

The foregoing does not imply that we are not sympathetic to some further adjustment in agency commission. On the contrary, our own thought is that it might be to the self-interest of the Lines to increase commission where we are meeting greater sales resistance. We all know that the Tourist Class is attracting more and more of our former Cabin, One-Class and even First Class trade, and will increasingly do so, as ships of the STATENDAM type emerge. While we have no objection to retaining the present 7% commission on Tourist business, we would concede 7½%, if all other Lines so favor. As we have pointed out once before, we see a strong possibility that the airlines will increase commission to 7½% when the jet planes with their greatly increased capacity, start emerging in significant numbers. But, primarily since, excepting a few sailings in the year, we are getting greater sales re-

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sistance in First, One-Class and Cabin, we would much rather, if we must, increase commissions for this category of business, to 7½% or even 8%.

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Excerpt from Rotterdam's letter A-AZ-3612 of Oct. 3, 1957

Re: International Consultative Council of Travel Agents

COMMISSION

You will note that the ICCTA delegation repeated the proposals submitted last year for increased rates of commission and submitted in support of their claim an analysis of the travel agent industry in the United States and Canada. Although a copy of this analysis may already have reached you, we attach one hereto for your ready reference.

We also refer in this connection to an article beginning on page 42 of the August issue of the ASTA Travel News.

It was pointed out to the ICCTA delegation by the A. C. Committee that, while their case would be studied with sympathy, the Lines themselves are faced with rising expenditure and are not in a position to pass on indiscriminately the additional cost at a time when air lines introduce drastic fare reductions.

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Excerpt from Rotterdam's letter A-AZ-7045 of Oct. 26, 1959

Re: Atlantic Conference Sub-Committee Meeting,
Sept. 28-Oct. 3, 1959

COMMISSION

While the rates of commission differ between domestic air lines in North America on the one hand, and United States, Canadian and European railroads on the other, depending

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on the type of transportation sold, it would seem that, generally, agents are not at a disadvantage when selling overland transportation in connection with transatlantic travel by ship, and sometimes may be at an advantage.

For inclusive tours, for which the air lines presently pay 10% commission, the sea lines would seem to be at a disadvantage, but only in dealing with tour operators, as long as these pay 10% commission to any sub-agents also in connection with tours involving transatlantic passage by ship.

In the case of sales by sub-agents of transportation by air not covering an inclusive tour, sub-agents receive additional commission on any hotel reservations arranged by air lines.

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Excerpt from New York's letter E-987 of Jan. 25, 1960

Re: Trans-Atlantic Passenger Steamship Conference
Meeting No. 444—Jan. 13, 1960
Minute 3856—Agency Commission.

The commission feature, in our opinion, is not overly important, since most of the all inclusive tours are handled by wholesalers who pay agents 10% on the whole deal, including transportation. In other words, they will usually add 3% extra commission on the Steamship transportation to their total price. Therefore, we feel that an increase in Steamship commission for inclusive tours would only benefit the tour operators, not the individual agents. Many views were expressed during the Meeting and the Secretary will submit to the Lines a draft letter to be dispatched to the Secretary of the A. P. S. C., containing these views. In general it was felt that it would not be desirable to introduce through rates in view of unfavorable pre-war experience with this system.

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Excerpt from New York Letter E-482 of June 7, 1960

Re: Trans-Atlantic Passenger Steamship Conference
Meeting No. 449—May 25, 1960
Minute 3919—PROMOTION OF SALES

During the meeting we reiterated our views on the matter, as also laid down in our previous communications with you, and it was decided to refer the matter to a special committee, of which we are also a member. The meeting was more or less unanimous that the two items referred to the T. A. P. S. C. by the A. P. S. C. for recommendation would hardly be effective to really promote inclusive Tour traffic by ship. We shall keep you further advised.

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Memo from H. G. CRADDOCK
March 30, 1961

Carl:

FMB Docket No. 873

Attached is copy of A. P. S. C. Memo of May 30th, with Mr. McConnell's notation thereon, and copy of Memo to the P. T. M.'s (Ref. Minute 3951) with Mr. Weber's commentary.

H. G. C.

Attachments

Exhibit 29

—391—

**ATLANTIC PASSENGER
STEAMSHIP CONFERENCE**

Telegrams: "Atlantico."
Telephone: 4334.

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

[Handwritten notation—We will *not* support either unless compensatory rates are agreed.—Wmcl. Jr.]

CONFIDENTIAL

PROMOTION OF SALES

Letter FROM Secretary Knowles, New York, dated May 27, 1960:—

"With reference to your letter dated May 10, 1960, a meeting of the Passenger Traffic Managers was held May 25th at which time Principals' Minute 378 was discussed. You will note from our Minutes, when issued, that a committee has been appointed to study the points raised by the Principals and to assist them, I have been requested to ask you for guidance on the following points:

1. Does the term "positive recommendation" mean that the Principals wish some type of affirmative action taken on one or both of the items mentioned or will a negative recommendation be acceptable to them?

2. Is it the Principals' intention to limit the Lines here to the above-mentioned items or would they be prepared to accept other recommendations for the promotion of sales?

There is considerable opposition here to both proposals on the ground that all benefits would accrue to the whole-

Exhibit 29

sale tour operator and would not stimulate additional traffic from the thousands of smaller retail agents. It certainly is not believed that the tour operator would pass his savings along to either the retail agent in the guise of higher commissions nor would the travelling public benefit by lower rates on the inclusive tours. Any background information you can furnish us will be most helpful in connection with our discussions on this matter."

NOTE:—Unless objection is received from any Line in the meantime, Secretary will dispatch the following reply on June 8, 1960:—

"I refer to your letter of May 27. My understanding of the position is that the small Committee should submit proposals for effectuating one or a combination of both of the alternatives mentioned in Principals' Minute 378. This does not mean that Principals will necessarily adopt the proposed procedure and should the Committee consider that no action should be taken this view should be expressed.

Similarly, if an alternative upon similar lines commands
—392—
great support, this would clearly be of interest to Principals. If any such alternative proposal be made, it will aid progress if appropriate rules are suggested.

So far as background information is concerned, Principals are aware from your letter of February 15, 1960, of the difficulty of obtaining unanimity in TAPSC on this subject and have selected for further study two of the proposals contained in that letter which seem most likely to

Exhibit 29

secure unanimity in the APSC. The position of the smaller retail agent, which had already been mentioned in your letter of February 15, was not overlooked, but the Lines' main concern was to prevent inclusive tour traffic being attracted away from the steamship carriers by the more favourable terms being offered by air carriers."

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DRAFT

New York 4, N. Y.

[Handwritten notation—Phoned Knowles are in agreement. J]

MEMO. to the PASSENGER TRAFFIC MANAGERS:

PROMOTION OF SALES

(Ref. Minute 3951)

In accordance with Minute 3951, the Committee appointed in Minute 3919, met on December 8, 1960 for discussion of suggestions contain in Principals' Minutes 390 and further review of proposals in Minute 378.

It was considered advisable to discuss the matter from two view-points, (1) Promotion of Sales through appeal to sub-agencies and (2) a sales approach which may be effectively dramatized to the public.

(1) Possible benefits to sub-agents.

(a) The Committee unanimously recommends the removal of the present maximum number of five free conductors tickets and the granting of an unlimited number of such tickets (passes) in connection with groups traveling during the off season periods on a round trip basis when both ways by sea or one way by sea and one way by air.

Exhibit 29

(b) Also unanimously recommended is the extension of conductors' free tickets to organizers of groups traveling during off season periods only, on the basis of one free conductor's ticket for each group of 10 passengers (no change in existing regulation re summer season).

(c) The proposal to establish a 10% commission for advertised inclusive tours restricted to off season periods did not obtain a majority recommendation. It is felt, that to establish such increased commission for any portion of a calendar year would create a precedent for further pressure from sub-agents for increased commissions for the entire year. It is further believed that, as previously indicated, such benefits would occur only to a limited number of wholesalers and could not be passed along either to the retail sub-agent or to the public.

(d) The proposal previously discussed to provide for allowing carrying Lines to defray up to 50% of the cost of folders advertising inclusive tours during the off season did not obtain majority approval. It is the belief of several committee members that, if adopted, it would be most difficult to control and it is considered doubtful whether the cost of such arrangements would be compensated by any material increase of group business.

(2) *Possible benefits to the public.* Several suggestions were made relating to new approaches to the public which would permit dramatization in advertising among which is the establishment of short term round trip rates during a restricted portion of the low season periods.

(a) One and a half times the one way fare is considered an appropriate rate for such a restricted period, but it is estimated that a 35% increase of traffic would be necessary

Exhibit 29

to maintain present revenues. To obtain this increased percentage of traffic appears to be most doubtful and the possibility of securing additional traffic over 35% to provide increased revenue appeared, to the majority, to be highly improbable. It was also mentioned that in view of the reduction of total berthing capacity during the winter season caused by Lines utilizing vessels in the cruise trades, the Lines maintaining trans-Atlantic operations would necessarily be required to fill a minimum of 75% of berth capacity to increase total revenues during the period and that such an increase in berth utilization would entail the sale of "uppers" which, it is believed, are simply not saleable during the winter period.

(b) Several other ideas were advanced which might be used to dramatize something "special" to the public, one of which is a honeymoon rate for newlyweds which would be composed of full fare for the husband and 50% off for the bride during a limited period. Another is that a special rate of 50% off the one way fare might be considered for the accompanying spouses of travelers over 65 years of age during a limited period. The majority present felt that both suggestions in (b) would appeal to such a limited number of persons that their value is dubious.

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(c) The establishment of an "educational plan" for children under 12 years of age. This "plan" would provide the granting of one free round trip ticket for each child accompanied by a parent during the period eastbound from November 1 to February 28; returning westbound not later than March 31st. The majority of representatives present appeared favorably disposed towards further consideration of this proposal.

Exhibit 29

(d) It is also proposed that negotiations should be undertaken with the Airlines to provide for the participation of steamship Lines in the 17-day excursion fare program presently in effect by the Airlines. It is suggested that the existing Air/Sea Interline Traffic Agreement might be amended to include a provision which will allow an Airline to grant one-half the excursion fare and the sea carrier, half the round trip rate on such trips. If necessary, the 17-day period might be increased to a longer period which would encompass the 3-week vacationer, thus allowing a two week excursion within Europe, a week for travel by sea and a day for travel by air across the Atlantic.

Submitted herewith, for consideration of the Passenger Traffic Managers.

G. L. Bowen and R. Nichols
E. I. Braun represented by J. Hesper
M. G. Craddock
B. Cucchi represented by F. Bertolotti
A. T. de Reisthal
E. I. Liman
G. F. Serafini
S. V. H. Upjohn (absent)
J. Veaudelle represented by R. Hartl

.

The above subject will be docketed for the next Passenger Traffic Managers meeting.

D. I. KNOWLES
Secretary

Exhibit 37**TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE**
80. BROAD STREET

Circular No. 276

New York 4, N. Y., May 12, 1961

TO SUB-AGENTS:

SUB-AGENCIES PROHIBITED FROM BOOKING PASSENGERS
FOR
STEAMSHIP LINES NOT MEMBERS OF THE CONFERENCE

It has come to our notice that an organization calling itself Trans-World Travellers Reservation & Registration Co. Inc. is actively soliciting sub-agencies of our member Lines to book passengers on vessels to be owned and operated by the Trans-Waterways Coach Lines Inc. for services on the North Atlantic in 1962-63.

Neither of the above mentioned companies is a member of the Trans-Atlantic Passenger Steamship Conference nor have such companies applied for membership and your attention is directed to Rule 5 of the Rules governing the activities of sub-agencies in North America contained in your Sub-Agency Appointment Agreement under which you are *prohibited from booking passengers* for a ship which is not connected with the fleets of any of the Conference Lines and is operated in a trans-Atlantic service competitive with such Lines.

Any steamship company operating a regular service and carrying passengers *between* ports on the East Coast of North America (United States and Canada) also United States Gulf Ports and European and Mediterranean Ports may apply for membership in this Conference if it desires to have sub-agencies of the Lines book passengers for its ships.

For your information, the address of 215 West 34th Street in New York, shown on the letterhead of Trans-World Travellers Reservation & Registration Co. Inc. is the Penn Terminal Hotel and Room 227 is presently occupied by a telephone answering service.

AMERICAN EXPORT LINES, INC.
CANADIAN PACIFIC STEAMSHIPS
COMPANHIA COLONIAL DE NAVEGACAO
CUNARD STEAM-SHIP COMPANY LIMITED, THE
DONALDSON LINE LIMITED
EUROPE-CANADA LINE
FRENCH LINE
FURNESS LINE
GDYNIA AMERICA LINE
GREEK LINE
GRIMALDI SIOSA LINES
HAMBURG-ATLANTIC LINE

HOLLAND-AMERICA LINE
HOME LINES
INCRES STEAMSHIP COMPANY LTD.
ITALIAN LINE
NATIONAL HELLENIC AMERICAN LINE
NORTH GERMAN LLOYD
NORWEGIAN AMERICA LINE
ORANJE LINE
SPANISH LINE
SWEDISH AMERICAN LINE
UNITED STATES LINES
ZIM LINES

ASSOCIATE MEMBERS

AMERICAN SCANTIC LINE
ANCHOR LINE LIMITED
BELGIAN LINE

CAIRNS, NOBLE & CO., LIMITED
HAMBURG-AMERICAN LINE
MANCHESTER LINERS LIMITED
SWEDISH TRANSATLANTIC LINE

Exhibit 50

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EXTRA COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334.

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A.C. 50-50.

March 8, 1950.

**MEMORANDUM BY SUB-COMMITTEE
ON AGENDA FOR
PRINCIPALS' MEETING
MARCH 2, 1950**

For record purposes Secretary begs to attach hereto the recommendations submitted for consideration of Principals at their Meeting held on March 2, 1950.

(See over)

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March 8, 1950.

A.C. 50-50.

PRESENT:—

In the chair: M. J. Veaudelle

AMERICAN EXPORT LINES, INC.

AMERICAN PRESIDENT LINES

AMERICAN SCANTIC LINE

CANADIAN PACIFIC STEAMSHIPS
LTD.

CIE. GENERALE TRANSATLANTIQUE

THE CUNARD STEAM-SHIP CO.
LTD.

DONALDSON ATLANTIC LINE LTD.

EAST ASIATIC COMPANY LTD.

Mr. W. F. Muller

Mr. L. E. How

Mr. H. C. Woodley

Mr. G. A. Hobbs

Mr. J. W. H. Townshend

M. J. Veaudelle

M. M. Delaporte

M. A. Stanislas

Mr. H. Hanning

Mr. J. L. Whitehead

Mr. Wm. B. Fleming

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*Exhibit 50***GDYNIA-AMERICA SHIPPING
LINES****GREEK LINE****HOLLAND-AMERICA LINE****HOME LINES****"ITALIA" S.p.A.N.****JOHNSTON WARREN LINES LTD.****KHEDIVIAL MAIL LINE, S.A.E.****NORWEGIAN AMERICA LINE****SWEDISH AMERICAN LINE****UNITED STATES LINES****Mr. S. Zakrezewski****Mr. L. Hotkis****Jhr. H. Reuchlin****Capt. G. Cosulich****Dr. P. R. Rossetti****Dr. Mario Donini****Comm. Ezio Bonfanti****Mr. E. Bradley****Mr. H. Hanning****Mr. J. L. Whitehead****Mr. Louis C. Bache****Mr. Eric Bolling****Mr. H. C. Woodley**

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March 8, 1950.

A.C. 50-50.

ITEM NO. 1.

AGENTS' COMMISSION

As an alternative to the existing rule the following suggestions were discussed:—

(a) That commission be increased to 7½% in all classes during an off-season period to be agreed.

(b) That commission be increased throughout the year to 7½% in First Class and Cabin only.

(c) That commission be increased to 7½% in First Class and Cabin but only during an off-season period to be agreed.

(d) That commission be increased throughout the year to 7½% in all classes.

Unanimity was not obtainable.

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ITEM NO. 2.

REDUCED ROUNDTRIP RATES

It is recommended that this question be referred to the Sub-Committee for consideration in conjunction with the general rate level, the Sub-Committee to meet in Brussels on Tuesday June 27, 1950.

ITEM NO. 3.

**FREE OR REDUCED RATES—
PARTY ORGANISERS**

It is recommended that the following provision be added to the schedule of free or reduced rates authorised

(Continued).

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A.C. 271-50.

October 9, 1950

MEMORANDUM BY SUB-COMMITTEE

ON AGENDA FOR

PRINCIPALS' MEETING

OCTOBER 5, 1950

For record purposes Secretary begs to attach hereto the recommendations submitted for consideration of Principals at their Meeting held on October 5, 1950.

(See over)

Exhibit 50

October 9, 1950.

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(A.C. 271-50.)

PRESENT:—

In the chair: Mr. G. A. Hobbs

AMERICAN EXPORT LINES, INC.	Mr. George C. Gaede
AMERICAN PRESIDENT LINES	Mr. L. E. How
AMERICAN SCANTIC LINE	Mr. H. C. Woodley
CANADIAN PACIFIC STEAMSHIPS LTD.	Mr. G. A. Hobbs
CIE. GENERALE TRANSATLANTIQUE	Mr. J. W. H. Townshend
THE CUNARD STEAM-SHIP Co. LTD.	Mr. M. Delaporte
DONALDSON ATLANTIC LINE LTD.	Mr. A. Stanislas
EAST ASIATIC COMPANY LTD.	Mr. H. Hanning
GDYNIA-AMERICA SHIPPING LINES	Mr. J. L. Whitehead
GREEK LINE	Mr. Wm. B. Fleming
HOLLAND-AMERICA LINE	
HOME LINES	Mr. R. Kutylowski
INCRES COMPANIA DE NAVEGACION "ITALIA" S.p.A.N.	Mr. L. Hotkis
JOHNSTON WARREN LINES	Jhr. H. Reuchlin
KHEDIVIAL MAIL LINE, S.A.E.	Mr. H. N. Dutilh
NORWEGIAN AMERICA LINE	Capt. G. Cosulich
SWEDISH AMERICAN LINE.	Dr. P. R. Rossetti
UNITED STATES LINES	Mr. H. Neville Rogers
	Dr. G. Ali
	Dr. Empoldi
	Mr. E. Bradley
	Mr. H. Hanning
	Mr. J. L. Whitehead
	Mr. L. C. Bache
	Mr. Eric Bolling
	Mr. H. C. Woodley

(Exh. 50)

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Exhibit 50

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October 9, 1950.

A.C. 271-50.

ITEM NO. 7.

MEETING PLACE FOR STATUTORY MEETING,
MARCH 1, 1951.

Left to Principals.

ADDITIONAL ITEM.

PORT TAXES.

It is recommended that the Secretary obtain for circulation to the Lines particulars of the per capita charges imposed at all ports served by the Member Lines and that the question be further considered at the next meeting of the Sub-Committee.

ADDITIONAL ITEM.

AGENTS' COMMISSION

All Lines expressed a willingness in principle to an increase in agency commission. Some Lines feel that the increase should apply to First Class only, some to First Class and Cabin only, others that it should be confined to the off-season for some or all classes.

The majority of the Lines, however, were prepared to increase the commission to 7½% all classes, all seasons.

ADDITIONAL ITEM.

AIR/SEA RELATIONS.

In the event that it is decided to increase commission to 7½% it is suggested that the following letter be dispatched by the Secretary to the Chairman

(Continued.....)

Exhibit 50

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[Handwritten notation—Send to each Member Line with covering letter. 12/1/51.]

COPY OF LETTER FROM SWEDISH AMERICAN
LINE, GOTHENBURG,

dated January 10, 1951.

Secretary,
Atlantic Conference,
65, Sandgate Road,
FOLKESTONE. KENT.
England.

Dear Sir,

With reference to our official letter of the 9th inst. we are fully aware that there is an informal agreement to the effect that Lines indicate their ideas when placing an item on the agenda. In connection with commission, however, there seems to be an understanding not to have too much official correspondence, and we therefore are writing you this separate letter just to let you know that our item in connection with agents' commission is to carry on advocating 7½% all year, all classes. We shall thank you for circulating this information privately to the principals of the Lines.

Very truly yours,

SVENSKA AMERIKA LINIEN
Passenger Department
(signed) ERIC NÖMING

[Handwritten notation—Send to each Member Line 8/1/51 with covering letter.]

February 8, 1951.

PRINCIPALS' MEETING. PARIS,
MARCH 1, 1951.

Letter FROM Mr. Tarleton Winchester, United States Lines, London, dated February 7, 1951:—

"Referring to the item "AGENTS' COMMISSION", which is listed for discussion at the above Meeting, and A. C. 34-51, we strongly favour an immediate increase in Agents' commission for all classes on the existing scale of rates regardless of any lower or higher rates which the Lines may find it necessary or advisable to quote at any time in the future.

We would prefer to have this increase in commission limited to off-season periods but are agreeable to its application throughout the year if this can bring about unanimity.

Will you please arrange to have this letter circulated to the Principals of the Lines."

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Exhibit 50

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[Handwritten notation—Send to each Member Line 6/2/51 with covering letter.]

February 16, 1951.

CONFIDENTIAL

PRINCIPALS' MEETING, PARIS
MARCH 1, 1951

Letter FROM The Cunard Steam-Ship Company Ltd.,
Liverpool, dated February 15, 1951:—

"In associating ourselves with the Swedish American Line in placing on the Agenda for the above Meeting the item 'Agents' Commission', it will, we think, have been understood by the Lines that our intention is the same as that of our Swedish colleagues, and we have been glad to observe from Mr. Tarleton Winchester's letter of February 7th on the same subject, that, in order to obtain unanimity, the United States Lines would agree to an increase in the scale of commission to 7½% all year, all classes.

Evidence is mounting to confirm our belief that the higher rate of commission paid by the Air Lines on trans-Atlantic bookings is strongly influencing Agents towards increasing their business for Air Services, and we feel that the Steamship Lines can only continue to disregard this fact to their detriment. Articles which have appeared in print stress this, and the feeling of Agents is apparent from their writings and the approaches which are being made to the Steam-Ship Lines on the subject.

We, therefore, trust that it will be found possible at the forthcoming Meeting to reach agreement on the basis indicated."

(Exh. 50)

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Exhibit 50.

EXTRA COPY

Nov 17 1951

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ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A. C. 312-51.

October 8, 1951.

MEMORANDUM BY SUB-COMMITTEE

ON AGENDA FOR

PRINCIPALS' MEETING

OCTOBER 4, 1951

For record purposes Secretary begs to attach hereto the recommendations submitted for consideration of Principals at their Meeting held on October 4, 1951.

(See over)

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PRESENT:—

In the Chair: Mr. Eric Bolling

AMERICAN EXPORT LINES INC.

Mr. W. H. McConnell

Mr. W. F. Muller

AMERICAN PRESIDENT LINES

Mr. L. E. How

AMERICAN SCANTIC LINE

Mr. H. C. Woodley

CANADIAN PACIFIC STEAMSHIPS

Mr. G. A. Hobbs

LTD.

Mr. J. W. H. Townshend

CIE. GENERALE TRANSATLANTIQUE

Mr. M. Delaporte

Mr. A. Stanislas

THE CUNARD STEAM-SHIP

Mr. H. Hanning

COMPANY LTD.

Mr. J. L. Whitehead

Mr. R. Scott

Exhibit 50

DONALDSON ATLANTIC LINE
 EAST ASIATIC COMPANY
 GREEK LINE
 HOLLAND-AMERICAN LINE

HOME LINES

INCRES COMPANIA DE
 NAVEGACION
 ITALIA S. p. A. N.

JOHNSTON WARREN LINES
 KHEDIVIAL MAIL LINE

NORWEGIAN AMERICA LINE
 SWEDISH AMERICAN LINE
 UNITED STATES LINES

Mr. Wm. B. Fleming
 Mr. F. Lyngesen
 Mr. L. Hotkis
 Jhr. H. Reuchlin
 Mr. Wm. Miechielsen
 Capt. G. Cosulich
 Dr. P. R. Rossetti
 Mr. P. d'Albert Lake
 Mr. H. Neville Rogers
 Dr. M. Donini
 Dr. M. Pace
 Dr. O. Empoldi
 Mr. E. Bradley
 Mr. W. H. McConnell
 Mr. W. F. Muller
 Mr. L. C. Bache
 Mr. E. Bolling
 Mr. H. C. Woodley

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ITEM No. 1.

RATE SITUATION. It is recommended that page 5 of the minutes of the meeting of the Sub-Committee held at Copenhagen on June 11-14, 1951, be re-printed with a notation in the margin to the effect that the first three paragraphs of Minute 131 were not confirmed.

It is also recommended that the question of grading and relativity be deferred for consideration by the Sub-Committee at a later date.

Some Lines favour an increase in advertised rates in all classes. The majority would agree to an increase in advertised Tourist rates. Unanimity, however, could not be reached on either proposal.

Exhibit 50

ITEM No. 2.

COMMISSION TO AGENTS. While there was a strong majority in favour of applying 7½% commission to all classes throughout the year, it was not possible to reach unanimous agreement. It was, therefore, suggested that the matter be deferred for consideration at the Statutory Meeting in March 1952.

(Continued)

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FILE COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A. C. 55-52.

February 11, 1952.

PRINCIPALS' MEETING, ROME
THURSDAY, MARCH 6, 1952

(Ref. A. C. 7-52)

Letter FROM Swedish American Line, Gothenburg, dated February 8, 1952:—

"We should like to place on the agenda for the above meeting the following items:

Agents' Commission.

Reduced Roundtrip Rates—Off-season.

As everybody will understand, it is our desire to reach agreement on 7½% commission all year, all classes. We

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Exhibit 50

also feel that the time may now have arrived where reduced roundtrip rates during the off-season may prove advantageous."

NOTE:—Lines are reminded that final agenda for the above meeting will be published on Thursday next, February 14.

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FILE COPY

Aug 10 1953

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A. C. 267-53.

August 5, 1953.

MEMORANDUM TO THE LINES

INTERNATIONAL CONSULTATIVE COUNCIL
OF TRAVEL AGENTS

With reference to the Secretary's letter of July 20, will Lines kindly note that the suggestion contained in Mr. de Monchy's letter of July 15 has been unanimously agreed. Arrangements are, therefore, being made for a Committee from I. C. C. T. A. to meet Principals in Paris on October 1st, 1953.

In replying to the original proposal submitted in Secretary's letter of July 7 the American President Lines, San Francisco, wrote, under date of July 13, as follows:—

Exhibit 50

"Your letter of July 7 presents the suggestion of the Sub-Committee that a committee representing the membership of the Atlantic Conference should meet with the International Consultative Council of Travel Agents and this meeting should take place prior to the Principals' Meeting October 1.

On receipt of the original advice of the formation of this council it was our opinion that the carriers sooner or later would be obliged to give them an audience. Since this is an international organization made up of various organized travel associations, we presumed that some consideration would be given for the organization of a conference council to meet with the International Council of Travel Agents. Such a transportation or conference council could include representation from the various surface passenger conferences throughout the world as well as the air conferences so that any dealings or discussions could be on an industry basis.

While Colonel Gardiner's letter of February 4, 1953, states that they have not specifically placed the question of commission on the agenda, I do not think any "of the

(Continued)

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carriers are so naive as to think that this is not the promotional point whether referred to directly or indirectly.

We approve of the proposed committee of the Atlantic Conference meeting with the International Consultative Council of Travel Agents on September 16. Our approval is given with the understanding this is to be an exploratory meeting primarily for the purpose of further development of the ideas of Council members."

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FILE COPY

Sep 3 1953

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

August 31, 1953.

A. C. 305-53.

SUB-AGENCY COMMISSION ON PREPAIDS

(Ref. A. C. 298-53)

Letter FROM The Cunard Steam-Ship Company Ltd.,
Liverpool, dated August 28, 1953:—

"With reference to the letter from the Holland-America Line circulated under A. C. 298-53, we are sure that the Lines will recall the discussions which took place at the March Meeting of the Principals in 1951, when it was found impossible to obtain agreement to increase the scale of sub-agency commission to 7½% all year round.

Subsequent to the Meeting there was an exchange of telegrams and letters between the various Lines, in order to clarify the question of commission to be allowed on prepaid certificates, which we, and probably the majority of the Lines, have always regarded as open bookings, and although Secretary Mayper's cable, quoted in A. C. 69-51, used the expression "Prepays" rather than "Open Prepays", we believe that at that time the views expressed by the Lines were in relation to open prepaid certificates. Our own telegram dated March 16th, quoted in A. C. 87-51, refers specifically to "Open Prepays", and on the conclu-

Exhibit 50

sion of this exchange of views, circular No. 229 was issued by the T. A. P. C. to Sub-Agents, dated March 23rd, 1951, and specifically states that the payment of 7½% commission would be allowed on "All Open Prepays and Open Tickets".

The instruction given to American Booking Agents by T. A. P. C. circular No. 229 is at present perfectly clear in that it limits the payment of commission of 7½% to off-season sailings and *open* prepaid certificates and open tickets, and we assume the Holland-America Line are adhering to the provisions of this circular in their acceptance of prepaid bookings in America.

We have repeatedly expressed the opinion "throughout

(Continued)

—331—

the Conference discussions that Sub-Agency commission should be on the basis of 7½% all year all classes, and this is still our view. If 7½% commission is to be allowed on a prepaid certificate endorsed for a specific steamer and sailing date, Agents generally will simply discontinue the issuance of actual steamer contracts, and concentrate their business during the summer season on the issuance of so-called prepaid certificates endorsed with specific accommodation allocated for a seasonal sailing, which, in turn, will require exchange for an actual steamer ticket by the Lines, which we consider simply creates a state of chaos.

As the Lines will be meeting in about one month's time, it may be felt desirable to postpone discussion until then."

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[Handwritten notations—Mtg No. 32—Meeting of Chicago Reps of TAPC Lines—Tues Mar 2d 1954]

199. *Lake Forest Travel Bureau*, 288 East Deerpath Avenue, Lake Forest, Illinois. Change in ownership to include Mr. J. Calvin Knotter as an active partner with Mrs. Knotter. APPROVED BY CONFERENCE.
200. *Simmons-Gateway Tours*, 35 East Wacker Drive, Chicago, Illinois. Change in address to 221 North LaSalle Street, Room 1353, Chicago, Illinois. APPROVED BY CONFERENCE.
201. *T. Dennis Duffy, d/b/a Caravan Tours*, 220 South State Street, Chicago 4, Illinois. Unanimously recommended for approval. Detailed information covering this applicant together with sub-agency fee and bond form will be forwarded shortly. Recommend bond in amount of \$20,000.
202. *Applications Declined*
 - a. *Four Corners Travel Bureau*, 511 Davis Street, Evanston, Illinois
Record of voting—6 Nay—9 Aye
 - b. *Pck Tours and Travel Service*, 230 North Michigan Avenue, Chicago 1, Illinois
Record of voting—8 Nay—7 Aye
 - c. *Sears-Community State Bank*, Homan Ave. at Arthington Street, Chicago, Illinois
Record of voting—Unanimously declined.
 - d. *Robert H. Hanson*, 341 West 76th Street, Chicago 20, Illinois
Declined for lack of sponsor.

Exhibit 50

203. *Application Deferred*

Astor Travel Bureau, address not specified
Application again deferred pending selection of
office location.

204. *Cancellation of Non-Productive Sub-Agent*

Agnes Cook Travel Service, 122 Clyde Avenue,
Evanston, Illinois

205. *T. A. P. C. Circular No. 241-F of December 21, 1953
to Sub-Agents*

Since receipt of Conference Circular No. 241-F dated
December 21st, some of our document-holding agents
in the Chicago Metropolitan Area have registered
objection to our enforcing part two of this rule, which
required the original deposit or part payment receipt
of a Trans-Atlantic Conference steamship line to be
delivered to the purchaser.

At the last monthly meeting of the Midwest Chapter
of A. S. T. A., their local President stated many of
their members felt this would increase their paper
work considerably and asked him to register a protest.
We refused to become involved in an open discussion
on this subject and told the President of A. S. T. A.
that if their membership felt this caused an undue
hardship they should write direct to Conference about
it.

The principal objection on the part of these agents is
that in many cases where they have sent a steamship
deposit receipt to a passenger, the passenger has
either lost or misplaced it and does not return the
receipt with his final payment, and when this occurs
the agent must so advise the Line who, in turn, in-

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sists on having an indemnity signed by the purchaser of the ticket. There are many times when the purchaser objects to and sometimes flatly refuses to sign such an indemnity, claiming that he has his cancelled

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check which is all the receipt that he needs to prove that he has paid for his ticket, that he has received his ticket and feels that he should not be called upon to sign an indemnity because, in his opinion, the steamship receipt that the agent sent him is now valueless. In many cases the agent's client becomes indignant, which of course is distressing to the agent. At a meeting of the Committee of Chicago Representatives of Trans-Atlantic Passenger Conference Lines held today, this matter was discussed at considerable length and it was unanimously decided that we should write to you and submit our feelings in the matter. We do not think it would be advisable for us to enforce this portion of the above rule at this time, for the following reasons:

(1) Air competition is increasing. The sale of a steamship ticket involves considerably more work on the part of an agent than the sale of an air ticket, as we have three classes of travel, different rates for various rooms, room locations to be considered, more complicated ticketing requirements, etc. By enforcing this rule we would be adding still more requirements. Our experience in dealing with agents is that many of them are inclined to take the line of least resistance and they can suggest air travel to their clients just as well as steamship. We believe, therefore, that we should be thinking in terms of reducing the paper work in connection with the sale of steamship tickets rather than increasing it.

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(2) We confirm that it is true that agents do have difficulty in many cases in securing the return of our deposit receipts, making it necessary for us to insist on their securing the purchaser's signature to our indemnity form. Further, we have had cases ourselves in connection with direct bookings, where our receipt has been lost, and where the passenger has become somewhat indignant at our insisting on an indemnity, and in some cases they have flatly refused to sign such an indemnity.

(3) We believe the enforcement of this rule would result in some of our ticket-holding agents asking us to place them on a non-ticket-holding basis.

(4) An ever increasing number of agents operate and sell all-inclusive tours and when selling same, collect a greater deposit than required to cover both steamer passage and the land portion. Therefore, these agents would, under the rule, be compelled to issue double receipts on each sale, thereby increasing their paper work.

We have been going along for many years without serious difficulty. In the case of an agent in default, the bonding company has been settling all claims supported by agents' receipts just as readily as they do in cases where a steamship receipt is presented. It appears to us, therefore, that our bonding arrangements should not be jeopardized if we did not enforce this rule.

Meeting adjourned at 12 Noon

Miss Helen E. Smith, Furness Lines,
to be next Chairman

March 9th, 1954

/s/ JAMES F. NOLAN

JAMES F. NOLAN—Chairman

MLS.

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FILE COPY

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ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A.C. 358-55.

September 15, 1955

MEMORANDUM TO THE LINES

INTERNATIONAL CONSULTATIVE COUNCIL
OF TRAVEL AGENTS

With reference to A.C. 329-55, a Committee from the Atlantic Conference represented as shown hereunder:—

Chairman, Atlantic Conference	Captain G. Cosulich
CANADIAN PACIFIC	Mr. J. W. H. Townshend
CIE. GENERALE TRANSATLANTIQUE	Mr. A. Stanislas
THE CUNARD STEAM-SHIP Co.	Mr. J. L. Whitehead
LTD.	
HOLLAND-AMERICA LINE	Mr. Wm. Miechielsen
ITALIA	Mr. A. Buias
UNITED STATES LINES	Mr. H. C. Woodley
Secretary, Atlantic Conference	Mr. W. H. Roper

met in Paris on Tuesday, September 13, the following delegation from I.C.C.T.A.:—

Mr. P. L'Hermite	Directeur, Service Commercial Cie. Int. des Wagons- Lits.	Representing the Wagons-Lits Co.
Mr. F. B. Kappler	General Manager, Deutsches Reiseburo G.m.b.H.	Representing the Deutsche Reiseburos Verbund.

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Mr. E. Lucchesi	Managing Director, Oltremare.	President of and representing the Federation Inter- nationale des Agences de Voyages. (Continued
Mr. A. A. D. Berg	Wm. H. Muller & Co. N.V. The Hague.	Deputising for Mr. W. Frei, Vice- President of F. I. A. V. and representing F. I. A. V.
Mr. T. Donovan	President, Cartan Travel Bureau, Inc., Chicago.	President of and representing the American Society of Travel Agents.
Mr. W. McGrath		Executive Vice- President and representing the American Society of Travel Agents.
Mr. Knut Wijk	General Manager, Nordisk Resebureau	Representing the Nordic Association of Travel Agents.
Mr. H. H. Robinson	Asst. General Mgr. (Negotiations), Thos. Cook & Son Ltd.	Representing Thos. Cook & Son Ltd. and the Association of British Travel Agents.

Mr. M. C. Elliott of the American Express Co. Inc. was
present as an Observer.

In the Chair Mr. H. H. Robinson.

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In opening the meeting Mr. Robinson extended a hearty welcome to the Atlantic Conference Committee. He stated that the meeting would be informal and although there was no fixed agenda he raised the following points:—

1. *Standardisation of Documents.* Although realising that the laws of different countries governed to a great extent the terms of the 'Steamship Lines' contract tickets, Mr. Robinson stressed the importance from the point of view of the agent's booking clerk of uniformity in steamship tickets. He expressed the view that they might be of a standard size and that the colours for both east and west and for the different classes should be the same for all Lines. The I. C. C. T. A. delegation was informed that this question has been considered by the Lines and is still under review. It was hoped that in the near future a greater measure of uniformity would be achieved.

(Continued)

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2. *Simplification of Sales.* Mr. Robinson stated that it would be of great assistance to travel agents if all Lines could apply the same lettering or numbering system to decks and rooms throughout their ships. For example, it would be of assistance to a sales clerk if he knew that 'A' Deck meant the top deck of the ship and that all even numbers were on the port side. It was explained to the I. C. C. T. A. delegation that standardisation must be a long term project which would be difficult and expensive to introduce, but that the suggestion would be borne in mind.

3. *Appointment of Agents.* Mr. Robinson expressed concern regarding the appointment of agents, especially in the United States and Canada, whose interest in travel is

Exhibit 50

merely incidental. In the large cities the appointment of agents is under the control of the T. A. P. C., but in others Lines were free to make their own appointments. I. C. C. T. A. proposed that all agency appointments in the United States and Canada should be subject to Conference control. Anxiety was expressed concerning the incursion of Sales Incentive Organisations into the travel business and their acquisition of existing travel agencies by transfer of ownership. The I. C. C. T. A. delegation asked that careful investigation should be made before Lines agree to the transfer of an agency.

4. *Sea/Air Interchange.* Mr. Robinson expressed the hope that it would soon be possible to reach agreement on the transfer of steamship and air tickets. He was informed that the Steamship Lines appreciated the situation which now exists and that the whole matter is at present under consideration in conjunction with the Air Lines.

5. *Commission.* Mr. Robinson stated that on inclusive tours from the United States and Canada tour operators pay to agents a commission of 10%, although in the high season the Steamship Lines on their section pay only 6%. He also stated that where a tour is involved the Air Lines pay 10% on their section. The I. C. C. T. A. proposal was that the Steamship Lines should extend their high season to a period approximating to that of the Air Lines, i.e. April/October inclusive eastbound and westbound, and that agency commission should be 7½% throughout the year. In support of this they submitted the attached memorandum.

6. *Meetings with I. C. C. T. A.* In closing the meeting Mr. Robinson expressed the hope that the present informal discussion had been of some value and suggested that an

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A.C. Committee should meet with I. C. C. T. A. once a year, or once every two years for a similar exchange of views.

This subject will be included in the agenda for the Principals' Meeting to be held in Rome on October 6, 1955.

(Continued)

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An analysis of the Trans-Atlantic Steamship Passenger Business brings to light some very interesting comparative material. For example, passenger carryings are as follows:

<i>Year</i>	<i>Report by T.A.C.</i>	<i>Number</i>
1930	"	1,180,000
1936	"	680,000
1947	"	326,000
1951	"	711,847
1954	"	945,000

The foregoing, notwithstanding the factors involved which are responsible for the fluctuations, particularly for the period immediately after World War II, reveal that even in 1954, we are still not equal to the aggregate volume of business on Trans-Atlantic Steamship that we carried in 1930. Another factor is the increase in the carryings:

1937	"	781,000
1954	"	945,000

or an increase of 21%.

An analysis of the rates, as applicable to first and/or cabin class, when cabin class was considered to be equal to first class, using the Queen Mary as the base, shows up as follows:

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<i>Year</i>	<i>Minimum First Class Rate</i>	<i>Percentage Increase</i>
1936	\$268.00	—
1946	360.00	34 $\frac{1}{3}$
1951	360.00	—
1955	380.00	5.4

Except for an increase in the off-season on our commission, which increase became effective during 1951 when the rate moved from 6% to 7 $\frac{1}{2}$ % for off-season only, the rate of commission of 6% has been maintained for the great volume of the business done on the Trans-Atlantic operations from 1946 to 1955.

It is significant that according to the best measuring rods obtainable to business generally, where the cost of doing business is rated as being 100% for the years 1947 to 1949, that the following evolves:

1946	40% increase over	1936
1951	33% " "	1946
1955	3.8% " "	1951
1955	94% " "	1936

The foregoing deductions are computed from analysing consumers' price index of all items of costs as put forth by
(Continued

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the U. S. Dept of Labor Bureau of Statistics.

In summation, we have this comparison:

	1936	1955	Increase
<i>Steamship Rates:</i>	\$268.00	\$380.00	41%
	1946	1955	
<i>Commission Rates:</i>	6%	6%	—
	1936	1955	
<i>Cost of Doing Business:</i>			94%

There was an approximately 41% increase in the steamship rate from 1936 to 1955. There was a 7½% off-season rate from 1951 to 1955. The increase in carryings, as reported by the Trans-Atlantic Conference in New York from 1936 to 1954 is approximately 40%.

It would certainly seem clear from the foregoing that the slight increase of the rates through the years when pitted against the fluctuating volume of Trans-Atlantic carryings through the years, that these two factors against the generally stabilized rate of commission through the years are not in keeping with the trend of the times which show an aggregate increase of 94% in the cost of doing business.

It becomes self-evident, we think, that this situation is bringing about an economic strain on the part of the steamship agency industry who are dependent entirely on commissions as a source of income to maintain themselves in business. It also seems very clear to us that the steamship lines, in order to meet competition they are faced with and to prepare themselves for an ever-increasing volume of new steamers, will need new revenue to achieve this re-

Exhibit 50

sult and, moreover, notwithstanding the foregoing, will need more revenue to meet the current expanding increased cost of doing business.

The Travel Agency fraternity does not want to be understood to be seeking a further depletion of the already lean net income the steamship carriers have but rather is seeking to cooperate with the steamship carriers and to encourage them to establish higher rates which, in our opinion, is the basic means of obtaining the much needed additional income to take care of the carrier's needs to enable them to provide increased commission to the agents. The recent industry survey undertaken by ASTA of the Travel Agency Industry brings forth some salient facts. This survey indicates the following:

(Continued)

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AVERAGE AGENT IN U. S. AND CANADA

<i>Aggregate Volume of Business</i>	<i>Gross Income</i>	<i>Salaries</i>	<i>Rent</i>	<i>Pro- motion</i>
\$300,000	\$21,000	\$10,500 or 51%	\$1,800 or 9%	\$2,000 or 10%

These three items of cost alone therefore account for \$14,300 of the gross income of \$21,000. By the time taxes, telephone, telegraph and multiple sundry items that go to make up the aggregate cost of doing business are included, it is safe to assume an absorption of balance of the aggregate \$21,000 income. To do \$300,000 worth of business, the owner will require at least three additional people in his office:

A Number One man or qualified booking clerk; a secretary and relief booking clerk combined; a junior clerk to do book-keeping and multiple chores.

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When it is considered that these four people operating this agency earn an aggregate of \$10,500 (including the owner) it becomes self-evident how lean the income in this travel agency business is at this time. This is one of the reasons that many agents find it necessary to double up and go into real estate or insurance as a complementary business to the travel agency business, shortchanging their promotional time and effort to the travel agency business because of the economics of the situation. Our hope is that this presentation to you will bear fruit and be of help in improving the overall situation, both for you as carriers and the travel agents.

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EXTRA COPY

Sep 18 1955

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A.C. 263-58.

September 4, 1958.

AGENCY COMMISSION

(Ref. A.C. 262-58)

Cable FROM Mr. R. W. Hemphill, President, American Society of Travel Agents, Inc., New York, dated September 3, 1958:—

"In support and further to our cable of September 2 although our requests repeated for several years have been fruitless we are hopeful that the necessary relief can be achieved through the Conference without further

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delay therefore we urge immediate affirmative action on our request for increased commissions for United States and Canadian agents as outlined in our proposal submitted to Conference and members in September 1957. We feel it only fair to advise you that ASTA can no longer accept the continuation of the unanimity rule which upon information and belief permits a small minority of Conference members to inflict economic hardship on the rank and file of United States and Canadian travel agents. We feel this matter mutually vital for complete discussion at your Conference meeting of October 9th and request official notification of the outcome of your deliberations."

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Sep 26 1956

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A.C. 367-56.

September 18, 1956.

MEMORANDUM TO THE LINES**INTERNATIONAL CONSULTATIVE COUNCIL
OF TRAVEL AGENTS**

With reference to Principals' Minute 248, a Committee from the Atlantic Conference represented as shown hereunder:—

CANADIAN PACIFIC

Mr. E. S. Spackman

Mr. J. W. H. Townshend

CIE. GENERALE TRANSATLANTIQUE

Mr. B. Loth

THE CUNARD STEAM-SHIP

Mr. J. L. Whitehead

COMPANY LTD.

Mr. R. Scott

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HOLLAND-AMERICA LINE	Mr. W. Miechielsen
HOME LINES	Mr. Paolo Cosulich
ITALIA	Dr. I. Fanelli
	Mr. R. J. Collins
UNITED STATES LINES	Mr. W. J. D'Olier
	Mr. H. C. Woodley
Secretary, Atlantic Conference	Mr. W. H. Roper

met in London on Tuesday, September 11, the following delegation from I.C.C.T.A. :—

Mr. F. B. Kappler	German Association of Travel Agents
Mr. Knut Wijk	Union of Nordic Travel Bureau Associations
Mr. Walter C. Frei	Federation Internationale des Agences de Voyages (F.I.A.V.)
Mr. A. Berg	Federation Internationale des Agences de Voyages (F.I.A.V.)
Mr. P. L'Hermite	Cie. Internationale des Wagons-Lits
Mr. B. C. Wren	American Express Co. Inc.
Mr. H. H. Robinson	Thos. Cook & Son Ltd. and A.B.T.A.
Mr. C. Holt	Thos. Cook & Son Ltd. and A.B.T.A.

(Continued)

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Mr. T. J. Donovan	American Society of Travel Agents (A.S.T.A.)
Mr. W. McGrath	American Society of Travel Agents (A.S.T.A.)

In the Chair.....Mr. H. H. Robinson

1. Matters arising out of the meeting in September 1955 (A.C. 358-55).

(a) *Standardization of Tickets.* Mr. Robinson enquired if any progress could be reported in the preparation of a

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standard ticket which would be common to all Member Lines. Mr. Whitehead, who had been appointed spokesman for the Atlantic Conference Committee, called upon Mr. Scott, a member of the small Committee which is studying this question, to explain the present position. Mr. Scott stated that at three meetings of this small Committee considerable progress had been made and that at the present time a draft standard eastbound ticket was before the Lines for further comments. Although many difficulties had to be faced and surmounted in achieving a standard ticket the Committee was hopeful that they would eventually succeed in doing so. Mr. Robinson enquired if, before adopting such a ticket, I.C.C.T.A. could be brought into the discussions, as it was obvious that the actual users of the ticket, viz. the agents, might have some useful suggestions to make. Mr. Whitehead stated that as all difficulties have not yet been reconciled it would be premature to accept this proposal.

- (b) *Seasonal Commissions.* Mr. Robinson on behalf of I.C.C.T.A. recorded their pleasure that the Conference had abolished seasonal commissions with their accompanying accountancy complications.
- (c) *Simplification of Sales.* Mr. Robinson asked if any progress could be reported in the simplification of sales by the introduction of uniformity in the lettering of decks and numbering of rooms, as referred to in para. 2 of A.C. 358-55. Mr. Whitehead replied that as stated at the meeting in Paris last year this was a long term policy but that the I.C.C.T.A. suggestions had been reported to Principals who no doubt would bear them in mind when planning new tonnage. Mr. Miechielsen in-

Exhibit 50

licated that they had made some adjustments in the deck numbering of the "Statendam" to conform with the system adopted by the majority of the other Lines. At the same time he pointed out that it would be difficult and very expensive to make any such changes in existing ships. Incidentally Mr. Whitehead added that as a further step to simplification of sales a Committee had been appointed to study the documentation of passengers. Having regard to the varying requirements in the different countries it is difficult to say at the present time how far this Committee will be able to proceed, but they may be relied upon to press forward with this important step towards simplifying the work of agents in the booking of passengers.

(Continued)

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New Points for discussion.

1. *Agency Commission.* Mr. Robinson put forward the following requests on behalf of I.C.C.T.A.:—

- (a) That the Conference agree to pay its accredited agents not less than 7½% commission on point to point sales.
- (b) That an increased commission be paid on steamship sales originating in the United States and Canada.
- (c) That the commission of 10% which is now allowed by airlines on inclusive tour traffic be adopted by the Conference.
- (d) That the present rate of 10% paid in North America on West Indies cruises be extended to all cruises identified as such and to multiple port roundtrip voyages which call at more than four ports.

Mr. Robinson then called upon Mr. Holt to speak on the subject. Mr. Holt referred to his letter (circulated under

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A.C. 235-56) and in a long statement, interspersed with much statistical data, sought to prove that an increase in the scale of commission is imperative if agents are to continue to run their businesses at a profit. Mr. Holt mentioned that in the interests of economy they had been forced to close down a number of their offices in the Far East and in South Africa and made the point that where they or any other agency have to close down their offices in any country somebody has obviously to continue the job of servicing passengers, and to some extent this would be an additional expense falling upon the Lines' own organisations.

He was strongly supported by Mr. McGrath, Mr. Wren, Mr. L'Hermite and Mr. Donovan who stated that agents in the United States are now inadequately remunerated for the work they do and that with costs increasing as they now are there will soon be no creative travel agents in the United States unless their incomes are increased. Mr. Donovan drew particular attention to the fact that on traffic to Mexico, the Caribbean, South America, etc., the scale of commission they receive is 10% in comparison with the much lower remuneration received for trans-Atlantic traffic. He also drew the Lines' attention to the cancellation of the U.S. Transportation Tax from October 1st next. The effect of this move would be to cheapen considerably the cost of tours to Mexico, Caribbean etc.

Mr. Whitehead said that the question of rising costs was one which equally affected the Conference Lines but nevertheless they have constantly endeavoured to hold down prices. He added that some improvement in agents' remuneration would be effected by an increase in rates which would become known to agents as they receive the Lines' tariffs for 1957.

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2. *Appointment of Agents.* Mr. Robinson stated that a Committee from A.S.T.A. had studied the various Conference agency appointment forms and he tabled the following observations which he suggested might be considered, having regard to the possibility that they may be in violation of the United States Anti-Trust Laws :-

(Continued)

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- (a) Whether or not the sub-agent has the right to withhold his commission after the cancellation of carriers tickets.
- (b) Does the travel agent have the right to make a move from his premises without interference on the part of the carrier as to whether he can or cannot move?
- (c) Suggest recommendation be made to the Atlantic Conference to review that portion of the Agency Appointment Forms that calls for unanimous action on the part of all members of the Conference because of any certain issue an agent might have with any other Line.
- (d) An agent should be able to sell his agency without interference on the part of the carrier, unless an important issue is involved.
- (e) Should Atlantic Conference have the right to cancel agents who have not reported within the specified time?
- (f) Consideration should be given to those clauses in the Atlantic Appointment Forms which state that an Agent renounces for himself, his successors, and assigns all right of recourse against the carrier or any of its members for any loss or damage suffered as a result of any action taken in good faith with regard to or in connection with the said agency rules, or the suspension or cancellation of the agreement.
- (g) Consideration should be given to the general right now held by carriers to cancel agencies with or without

Exhibit 50

cause. Consideration should also be given to the clauses in agency agreements which prevent an agent from making a claim against a carrier from harm resulting from a wrong cause.

- (h) The right to receive any amount of commission from any individual Line that may be offered to a Travel Agent.
- (i) The right to sell transportation for any carrier whether they are a member of a conference or not."

Mr. Whitehead stated that any suggestions I.C.C.T.A. had to offer regarding the foregoing would be considered by the Atlantic Conference and if necessary referred to the T.A.P.C. for their views.

3. *Sea/Air Interchange of Tickets.* Mr. Robinson enquired as to the present position in regard to the interchange of tickets between sea and air lines. Mr. Whitehead informed him that negotiations were still proceeding with the airlines but that no conclusion had yet been reached. In reply to Mr. Robinson's request that when there is a trans-

(Continued)

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fer from sea to air agents' commission should be protected, Mr. Whitehead stated that in almost all cases the steamship line protects the agent's commission. He expressed the hope that his practice would be followed by the airlines when transferring a ticket to a steamship line.

4. *Consultation with I.C.C.T.A.* Mr. Robinson suggested that there should be prior discussion between the Conference and I.C.C.T.A. on matters of mutual interest before decisions are announced. Mr. Whitehead replied that this would hardly be practicable and he felt that the present arrangement under which a Committee from the Confer-

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ence meets a delegation from I.C.C.T.A. in the latter half of September each year provides a useful channel for bringing to the attention of Principals, the views of I.C.C.T.A. on any matters they wish to raise. It was pointed out to I.C.C.T.A. that all Lines are continually in touch with agents through their own travellers and are therefore well-informed of agents' views.

5. *Lines' Printed Matter.* Mr. Donovan requested that in literature which the Lines send to agents in the United States and Canada for distribution to prospective passengers all reference to Lines' own offices and their addresses should be deleted as this encourages the prospect to complete the booking in the Lines' own office instead of with the agent who had already carried out much of the preliminary work. Mr. Whitehead stated that this was not a Conference matter but that the request would be brought to the notice of the Lines for consideration by each individually.

The meeting terminated with a vote of thanks to the Chairman.

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**TRANS-ATLANTIC PASSENGER
STEAMSHIP CONFERENCE
80 Broad Street**

New York 4, N. Y., October 28, 1959

MEMO. to the PASSENGER TRAFFIC MANAGERS:

CONFIDENTIAL
COMPETITION BETWEEN IATA AND APSC LINES

(Ref. Conf. Memo. to PTMs dated October 22, 1958)

We quote below the text of self-explanatory communications to and from Mr. R. M. L. Duffy, Secretary of the Atlantic Passenger Steamship Conference, Folkestone.

Letter TO Mr. Duffy, dated February 26, 1959:

"Kindly refer to Mr. Roper's Confidential letter dated October 15, 1958 in which we were asked 'confidentially to study and report upon the differences between the commissions being paid by IATA in the United States and Canada and those of the T.A.P.C. Lines, also the effect of any differences upon the promotion of traffic.' The matter has had the careful attention of the Lines, whose joint report is contained herein.

"1. Commissions being paid by IATA in the United States and Canada are set forth in the enclosed 'Sales Agency Rules' pamphlet issued by IATA and applicable within the area of Traffic Conference 1 (Western Hemisphere and Islands Adjacent thereto). Although the pamphlet is undated, it is of recent issue and contains, on pages 19 to 27 the currently-effective rules relating

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to commissions and inclusive tours; it has furthermore been indicated that the commission rates on First or Tourist Class transportation are applicable, also, to Economy Class.

"2. An airline agent selling air transportation from a point in the interior of the United States or Canada to an interior European Continental airport receives

7% commission on the fares of the domestic portions of the trip as well as the trans-ocean portion, i.e., from point of origin to point of destination—despite the fact that the rate of commission for domestic air transportation alone is 5%. A steamship agent booking the same passenger by rail to port of departure and by ship receives, of course, 7% commission on the trans-Atlantic fare. If he is an agent recognized by the Rail Travel Promotion Agency, he will receive commission as outlined in undated RTPA-1 'Compensation Arrangements in Effect on Carriers Members of the RTPA.' In general, this means that the RTPA agent will receive 10% commission from participating railroads on the sale of *round-trip* rail tickets from points within the United States to and from a United States or Canadian port, if the passenger is traveling either by sea, or by air to and from a trans-Atlantic destination. Canadian railroads pay this commission to Canadian agents only in case of group booking (15 passengers or more). In case of a one-way ticket sold to or from the port of departure or arrival in connection with trans-Atlantic transportation either by sea or air and subject to the restrictions contained in RTPA promulgations, a United States and Canadian agent will receive 7% commission from participating railroads. As

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far as rail transportation in Europe is concerned, basically 7½% commission is paid to agents in the United States and Canada selling European rail tickets.

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"3. An airline agent selling an inclusive tour received 10% commission on price of tour (See A.C. 310:58 re "Steamship All Expense Tours to Europe," and page 21 of "Sales Agency Rules").

"4. Considering the subject from the viewpoint of promotion of traffic, through transportation by air from an inland point in the United States or Canada to a European point is booked by an agent with convenience and simplicity. All three legs of the trip are handled as one transaction and one continuous simple form of ticket is used after obtaining complete information from the initiating carrier. The same trip booked by rail and ship requires the agent to apply to three different carriers for the necessary reservations and ticketing, increasing his work load, and sometimes with less commission received. The airline, incidentally, will also arrange hotel reservations on which the agent receives additional commission."

Letter FROM Mr. Duffy, dated October 13, 1959:

"I refer to your letter of February 26, 1959 which has received careful consideration by the Sub-Committee. In view of reports received during the current season regarding steamship inclusive tours and other business, the Lines here would like recommendations from the TAPSC as to the best method of meeting the advantageous position at present enjoyed by the airlines. It will be appreciated, therefore, if you will call a meeting of Passenger Traffic Managers as soon as possible to

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consider what steps can be taken to remedy the present position and to make recommendations to this Conference.

Letter TO Mr. Duffy, dated October 15, 1959:

"This will acknowledge receipt of your letter dated October 13, 1959 regarding reports relating to the current season and requesting recommendations from the Trans-Atlantic Passenger Steamship Conference as to the best method of meeting the advantageous position presently enjoyed by the airlines.

"In accordance with the wishes of the Principals, a meeting of the Passenger Traffic Managers will be called as soon as possible to discuss this problem and the result of such discussion will be immediately reported to you."

.

This subject will be included on the docket for consideration at the next meeting of the Passenger Traffic Managers.

Kindly keep this matter CONFIDENTIAL.

D. I. KNOWLES
Secretary

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London, October 7, 1959.

SHEET No. 22

CONFIDENTIAL MEMORANDUM TO PRINCIPALS.

With reference to item (d) of Principals' Minute 342, also with reference to Sub-Committee Minute 310 the Sub-Committee has considered the letter from Secretary Knowles dated February 26, 1959 and appreciates that agents and

Exhibit 50

tour operators are able to obtain more attractive conditions from airlines. The Sub-Committee feels that the problem is one which largely affects those selling passages in North America and recommends that a letter to Secretary Knowles, in the following terms, be despatched by the Secretary:—

"I refer to your letter of February 26, 1959 which has received careful consideration by the Sub-Committee. In view of reports received during the current season regarding steamship inclusive tours and other business, the Lines here would like recommendations from the TAPSC as to the best method of meeting the advantageous position at present enjoyed by the airlines. It will be appreciated, therefore, if you will call a meeting of Passenger Traffic Managers as soon as possible to consider what steps can be taken to remedy the present position and to make recommendations to this Conference."

313a

Exhibit 52

EXTRA COPY

Mar 18 1950

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A.C. 50-50.

March 8, 1950.

MEMORANDUM BY SUB-COMMITTEE

ON AGENDA FOR

PRINCIPALS' MEETING

MARCH 2, 1950

For record purposes Secretary begs to attach hereto the recommendations submitted for consideration of Principals at their Meeting held on March 2, 1950.

(See over)

ITEM NO. 1.

AGENTS' COMMISSION

As an alternative to the existing rule the following suggestions were discussed:—

(a) That commission be increased to 7½% in all classes during an off-season period to be agreed.

(b) That commission be increased throughout the year to 7½% in First Class and Cabin only.

Exhibit 52

(c) That commission be increased to 7½% in First Class and Cabin but only during an off-season period to be agreed.

(d) That commission be increased throughout the year to 7½% in all classes.

Unanimity was not obtainable.

ITEM NO. 2.

REDUCED ROUNDTrip RATES

It is recommended that this question be referred to the Sub-Committee for consideration in conjunction with the general rate level, the Sub-Committee to meet in Brussels on Tuesday June 27, 1950.

ITEM NO. 3.

• • • • •

EXTRA COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A.C. 271-50.

October 9, 1950

MEMORANDUM BY SUB-COMMITTEE
ON AGENDA FOR
PRINCIPALS' MEETING
OCTOBER 5, 1950

For record purposes Secretary begs to attach hereto the recommendations submitted for consideration of Principals at their Meeting held on October 5, 1950.

(See over)

315a

Exhibit 52

ITEM NO. 7.

MEETING PLACE FOR STATUTORY MEETING, MARCH 1, 1951.

Left to Principals.

ADDITIONAL ITEM.

PORT TAXES.

It is recommended that the Secretary obtain for circulation to the Lines particulars of the per capita charges imposed at all ports served by the Member Lines and that the question be further considered at the next meeting of the Sub-Committee.

ADDITIONAL ITEM.

AGENTS' COMMISSION.

All Lines expressed a willingness in principle to an increase in agency commission. Some Lines feel that the increase should apply to First Class only, some to First Class and Cabin only, others that it should be confined to the off-season for some or all classes.

The majority of the Lines, however, were prepared to increase the commission to 7½% all classes, all seasons.

ADDITIONAL ITEM.

AIR/SEA RELATIONS.

In the event that it is decided to increase commissions to 7½% it is suggested that the following letter be dispatched by the Secretary to the Chairman

.

Exhibit 54

ATLANTIC CONFERENCE

**MINUTES OF MEETING
of the
ATLANTIC CONFERENCE**

**held at the
HOTEL PLAZA-ATHENE,
PARIS
THURSDAY, MARCH 1, 1951**

142—COMMISSION

(a) *To Agents.* It is agreed for bookings effected on and after March 5, 1951, that sub-agents' commission be increased to 7½% in all classes except for sailings during the agreed high season periods which for 1951 are:—

UNITED STATES SERVICES

Eastbound: May 1 to July 31.

Westbound: July 15 to October 15.

CANADIAN SERVICES

Eastbound: May 15 to July 31.

Westbound: July 15 to September 30.

The entire subject to be reviewed at the Principals' Meeting in October, 1951.

(b) *On I. R. O. Orders.* It is agreed that no commission be paid to I. R. O. It is also agreed that no commission be allowed to sub-agents when passage money is paid to the Line by I. R. O.

317a

Exhibit 54

FILE COPY

Mar 8 1951

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A.C. 67-51.

March 5, 1951.

MEMORANDUM TO THE LINES

AGENTS' COMMISSION

The following communications received in Folkestone and transmitted to the Secretary in Paris on Thursday March 1st were read to the meeting of Principals by the Chairman:—

Telegram FROM Secretary, Interchange Lines, London, dated March 1, 1951:—

"As a matter of possible interest to your Members am directed to advise you that the Lines Members of Interchange are unanimously against increased commission to agents."

Telephone message FROM Secretary, Australian and New Zealand Passenger Conference, London:—

"I understand that the Interchange Lines and the South American Conference have expressed their views to you in regard to the application by the Association of British Travel Agents for an increase in rate of commission. I also believe that one or two of the members of this Conference have also talked to individual members of your Conference on the subject and for your information I am asked by Member Lines of this Conference to say that they are unanimously against

Exhibit 54

the request to increase agents' commission from 5% to 7½%."

After the meeting closed a telephone message was received in Paris, via Folkestone, from the Secretary of the South American Passenger Conference intimating that the Member Lines of that Conference were unanimously against any increase in agents' commission.

In acknowledging these messages Secretary has conveyed to the Secretaries of these Conferences the decision taken by the Atlantic Conference which is contained in Principals Minute No. 142(a).

CONFIDENTIAL

Letter FROM Mr. J. C. Patteson, European General Manager, Canadian Pacific, London, dated December 11, 1953:—

"Thank you for your letter of December 10th.

As both Mr. de Monchy, the Chairman of the Atlantic Conference and Mr. W. G. Giel, Chairman of the Interchange Lines, are resident in Rotterdam, it might be preferable if these two gentlemen met and discussed the matter before any further steps are taken."

Letter FROM The Cunard Steam-Ship Company, Ltd., Liverpool, dated December 15, 1953:—

"We are in receipt of your letter of December 10th, and thank you for enclosing copy of a communication dated the 9th idem which you have received from the Secretary of the Interchange Lines, London, on the subject of Agents' Commission.

Exhibit 54

In view of the fact that there is some variation of opinion amongst the A.C. Lines on our present Sub-Agency Commission Scale, and as we gather from the third paragraph of Mr. Mead's letter that there are some similar differences of opinion amongst the members of the Interchange Lines, it is to our mind very doubtful whether anything would be achieved by the holding of an Inter-Conference Meeting on this subject at the present time.

Such a meeting if attended by all the members of all the interested Conferences would undoubtedly be completely unwieldy. However, if you find there is any general wish amongst the Member Lines of the Atlantic Conference to attend such a meeting, and if the respective Conferences could appoint small working committees to meet and report to their individual Conferences, we would be quite prepared to go along."

Letter FROM Donaldson Atlantic Line Ltd., Glasgow, dated December 14, 1953:—

"We acknowledge receipt of your confidential letter of 10th inst. with which is enclosed a copy of a communication which you have received from the Secretary of the Interchange Lines on the subject of commission.

(Continued)

"As we believe one or more of the Atlantic Conference Lines also are members of the Interchange and Far Eastern Conferences, we would be prepared to be governed by any expressions which they would care to convey to you."

Exhibit 54

Letter FROM The East Asiatic Company Ltd., Copenhagen,
dated December 12, 1953:—

"We duly received your letter of 10th inst. and in reply would inform you that in our opinion a letter from this Conference to the Secretary of the Interchange Lines advising that A.C. remunerations to agents exceed 5% and cannot be brought back to that limit, will make any meeting superfluous."

Letter FROM Furness, Withy & Co. Ltd., Liverpool, dated
December 16, 1953:—

"In reply to your letter of the 10th inst., if it is the general wish of the Lines, we have no objection to a small Committee representing the Atlantic Conference meeting the Interchange Lines, Far Eastern Passenger Conference, Australian & New Zealand Passenger Conference and South American Passenger Conference, with a view to considering concerted action on the question of commission rates."

• Letter FROM Holland-America Line, Rotterdam, dated
December 14, 1953:—

"We wish to thank you for your confidential letter of December 10th with attached copy of a letter addressed to you by the Secretary of the Interchange Lines proposing a joint meeting of the principal passenger carrying Sea Lines on the question of commission to agents.

This is to inform you that we are, in principle, agreeable to such a joint meeting and we shall be glad to be informed of further developments."

(Continued)

321a

Exhibit 54

Letter FROM Ingres Compania de Navegacion S.A., London, dated December 14, 1953:—

“Receipt is acknowledged of your confidential letter of the 10th December enclosing copy of communication dated 9th December which you have received from the Secretary of the Interchange Lines, London, and so far as this Company is concerned, we are agreeable to follow the decision of the majority.”

Letter FROM Swedish American Line, Gothenburg, dated December 15, 1953:—

“We are in receipt of your letter of the 10th inst. with letter from the Secretary of The Interchange Lines.

Needless to say, it may be of interest to have a joint meeting with other conferences in the matter of commission. We, however, feel it difficult to be represented at such a meeting in the near future but would suggest that if the meeting is desired also by other A.C. Lines, it might not be impossible to tack the matter on in connection with the Principals' March meeting.

We shall be interested to hear the views of other Lines concerned.”

(Exh. 59)

322a

Exhibit 59

FILE COPY

Feb 18 1952

ATLANTIC CONFERENCE

**Telegrams: "Atlantico."
Telephone: 4334**

**65, SANDGATE ROAD,
FOLKESTONE,
KENT.**

A.C. 62-52.

February 13, 1952.

PRINCIPALS' MEETING, ROME

THURSDAY, MARCH 6, 1952

(Ref. A.C. 7-52)

**Letter FROM The Cunard Steam-Ship Company Ltd.,
Liverpool, dated February 11, 1952:—**

**"We will be glad if you will place the following item
on the Agenda for the above Meeting:—**

COMMISSION TO AGENTS."

(Exh. 59)

323a

Exhibit 59

FILE COPY

Feb 18 1952

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A.C. 70-52.

February 14, 1952.

MEMORANDUM TO THE LINES

PRINCIPALS' MEETING

TO BE HELD AT THE

HOTEL EXCELSIOR, ROME

ON

THURSDAY, MARCH 6, 1952

AT 10:00 A.M.

A G E N D A

Secretary begs to attach hereto agenda for the above meeting.

(See over)

A.C.

Subject	At the Request of:	Memoranda
1. LEVEL OF PASSAGE RATES	C. G. T.	A.C. 27-52.
2. AGENTS' COMMISSION	Cunard Swedish Am.	A.C. 55-52, 62-52.
3. RATES FOR DORMI- TORIES—"FLANDRE"	C. G. T.	A.C. 11-52, 16, 23, 24, 28, 30, 37, 66-52.

Exhibit 59

Subject	At the Request of:	A.C. Memoranda
4. REDUCED ROUNDTRIP RATES—OFF-SEASON	Swedish Am.	A.C. 55-52.
5. ROTARY ANNUAL CONVENTION, LONDON, 1953 — PARTY ORGANISERS	U. S. L.	A.C. 45-52.
6. SEA/AIR RELATIONS	—	Prin. Min. 151.
7. P.I.C.M.M.E.	Holland-America	A.C. 390-51, 18-52, 33, 39, 48, 52, 64-52.
8. MEMBERSHIP OF ATLANTIC CONFERENCE —COMPANIA INTERNACIONAL TRANSPORTADORA, S.A.	Holland-America	A.C. 43-52, 47, 58-52.
9. E.T.C. Co-ORDINATION COMMITTEE	—	A.C. 65-52.
10. ELECTION OF CHAIRMAN, DEPUTY CHAIRMAN, ARBITRATORS AND DEPUTY ARBITRATORS FOR THE YEAR COMMENCING OCTOBER 2, 1952.	—	Art. 3(f)
11. MEETING PLACE FOR STATUTORY MEETING, OCTOBER 2, 1952.	—	Art. 3(e)(ii)

325a

Exhibit 59

Feb 28 1952

(Letterhead of American Society of Travel Agents, Inc.,
New York 16, N. Y.)

(Emblem)

February 28, 1952

Mr. Joseph Mayper, Secretary
Trans Atlantic Passenger Conference
80 Broad Street
New York, N.Y.

Dear Mr. Mayper:

It is our understanding that there will be a Principals' meeting of the Trans Atlantic Conference abroad some time early next month. In view of this, we take this occasion to urge that the matter of considering the payment of 7½% commission during the high season on all Trans Atlantic sales be placed on the agenda in order that the matter may again come before the Principals of the Trans Atlantic lines.

Needless to say, all the members of the American Society of Travel Agents are hopefully looking forward to a decision on the part of the Conference which will recognize the economic need for an increase in the commission to 7½% on all business done during the high season. Spiraling costs that have been continually upward for the last several years surely sustain the request that the agents are making for this consideration. It is self evident that the cost of doing business—selling tickets in the high season—is relatively greater because of the need for multiple

Exhibit 59

requests for space on account of congestion, etc., than is the cost of doing business in the off season. Similarly, it is self evident that the nature of the business being seasonal, as it is, the agent has to depend on a great volume during the high season in order to maintain himself in business on a year-round basis, and to offer a stabilized quality of service to the clients of the steamship lines with whom he deals.

We believe this request to be sufficiently meritorious as to hopefully anticipate favorable action on the part of the Conference at the forthcoming meeting.

May we ask you to please be good enough to bring this request of the American Society of Travel Agents, on behalf of its members, to the attention of the Principals before the meeting assembles.

With thanks for your cooperation, we are

Sincerely yours,

/s/ GEORGE KRONENGOLD

George Kronengold

Chairman

Steamship Advisory Committee

327a

Exhibit 59

February 29, 1952

Mr. George Kronengold, Chairman
Steamship Advisory Committee
American Society of Travel Agents, Inc.
13 East 37th Street
New York 16, N. Y.

Dear Mr. Kronengold:

This will acknowledge receipt of your letter of February 28, 1952, regarding commissions, which is being brought to the attention of the Lines.

Sincerely

JOSEPH MAYPER
Chairman and Secretary

MS

TRANS-ATLANTIC PASSENGER
CONFERENCE
80 Broad Street

New York 4, N.Y., February 29, 1952
PC 10,603

SUB-AGENCY COMMISSIONS

Letter FROM Mr. George Kronengold, Chairman, Steamship Advisory Committee, American Society of Travel Agents, Inc., 13 East 37th Street, New York 16, N.Y., dated February 28, 1952:

"It is our understanding that there will be a Principals' meeting of the Trans-Atlantic Conference abroad some time early next month. In view of this,

Exhibit 59

we take this occasion to urge that the matter of considering the payment of $7\frac{1}{2}\%$ commission during the high season on all Trans-Atlantic sales be placed on the agenda in order that the matter may again come before the Principals of the Trans Atlantic lines.

"Needless to say, all the members of the American Society of Travel Agents are hopefully looking forward to a decision on the part of the Conference which will recognize the economic need for an increase in the commission to $7\frac{1}{2}\%$ on all business done during the high season. Spiralling costs that have been continually upward for the last several years surely sustain the request that the agents are making for this consideration. It is self evident that the cost of doing business—selling tickets in the high season—is relatively greater because of the need for multiple requests for space on account of congestion, etc., than is the cost of doing business in the off season. Similarly, it is self evident that the nature of the business being seasonal, as it is, the agent has to depend on a great volume during the high season in order to maintain himself in business on a year-round basis, and to offer a stabilized quality of service to the clients of the steamship lines with whom he deals.

"We believe this request to be sufficiently meritorious as to hopefully anticipate favorable action on the part of the Conference at the forthcoming meeting.

"May we ask you to please be good enough to bring this request of the American Society of Travel Agents, on behalf of its members, to the attention of the Principals before the meeting assembles.

"With thanks for your cooperation, we are"

329a

Exhibit 59

Letter TO Mr. Kronengold, dated February 29, 1952:

"This will acknowledge receipt of your letter of February 28, 1952, regarding commissions, which is being brought to the attention of the Lines."

JOSEPH MAYPER
Chairman and Secretary

ATLANTIC CONFERENCE

MINUTES OF MEETING

of the

ATLANTIC CONFERENCE

held at the

HOTEL EXCELSIOR, ROME

THURSDAY, MARCH 6, 1952

156—AGENTS' COMMISSION.

It is agreed that this question be referred for consideration to the meeting of the Sub-Committee to be held on June 17, 1952.

Exhibit 59

we take this occasion to urge that the matter of considering the payment of 7½% commission during the high season on all Trans-Atlantic sales be placed on the agenda in order that the matter may again come before the Principals of the Trans Atlantic lines.

"Needless to say, all the members of the American Society of Travel Agents are hopefully looking forward to a decision on the part of the Conference which will recognize the economic need for an increase in the commission to 7½% on all business done during the high season. Spiralling costs that have been continually upward for the last several years surely sustain the request that the agents are making for this consideration. It is self evident that the cost of doing business—selling tickets in the high season—is relatively greater because of the need for multiple requests for space on account of congestion, etc., than is the cost of doing business in the off season. Similarly, it is self evident that the nature of the business being seasonal, as it is, the agent has to depend on a great volume during the high season in order to maintain himself in business on a year-round basis, and to offer a stabilized quality of service to the clients of the steamship lines with whom he deals.

"We believe this request to be sufficiently meritorious as to hopefully anticipate favorable action on the part of the Conference at the forthcoming meeting.

"May we ask you to please be good enough to bring this request of the American Society of Travel Agents, on behalf of its members, to the attention of the Principals before the meeting assembles.

"With thanks for your cooperation, we are"

329a

Exhibit 59

Letter TO Mr. Kronengold, dated February 29, 1952:

"This will acknowledge receipt of your letter of February 28, 1952, regarding commissions, which is being brought to the attention of the Lines."

JOSEPH MAYPER
Chairman and Secretary

ATLANTIC CONFERENCE

MINUTES OF MEETING

of the

ATLANTIC CONFERENCE

held at the

HOTEL EXCELSIOR, ROME

THURSDAY, MARCH 6, 1952

156—AGENTS' COMMISSION.

It is agreed that this question be referred for consideration to the meeting of the Sub-Committee to be held on June 17, 1952.

Exhibit 59

ATLANTIC CONFERENCE

Minutes of

SUB-COMMITTEE MEETING

held at the

AMSTËL HOTEL, AMSTERDAM

JUNE 17-23, 1952

149.—AGENTS' COMMISSION.

It is agreed to defer this question for consideration at the meeting of Principals in October, 1952.

FILE COPY

Sep 30 1952

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A.C. 286-52.

September 27, 1952.

AGENTS' COMMISSION

Letter FROM Mr. A. L. Simmons, President, American Society of Travel Agents, Inc., 13 East 37th Street, New York, 16, dated September 24, 1952:

"In view of the fact that the members of the Trans-Atlantic Passenger Conference will be meeting soon, and anticipating that they will have on their Agenda

331a

Exhibit 59

the matter of increasing agents' commission to 7½% the year round, this letter on behalf of the members of the American Society of Travel Agents is being addressed to you.

May we assure you that the economics of doing business in the agency field are such as to make the matter of increasing the commission, as above mentioned, urgently necessary. The rise in costs has been steady for many years past whereas the rate of commission has been stabilized. The net result is that it is costing the agent much more to do business today than ever before and, in all fairness, he needs the helpful, cooperative consideration of the carriers in order to increase his income. This increase is necessary for the basic reason that the agent needs more income to sustain himself, and, secondly, to maintain a quality of service in his organization that will at least meet the standards that have been established through the years.

The lengthening of the high season has further aggravated the income problems of the agent, and our hope is that the carriers, when making such a decision, fully anticipated that corrective measures would be implemented at the earliest opportunity. We therefore want you to know that our eyes are focussed with great anxiety on the decisions you make at your forthcoming meeting which we understand will take place in Paris on or about October 2, 1952.

The proven productive ability of the agency field as the major economical sales outlet of the Trans-Atlantic Steamship Lines for so many years makes the mem-

(Exh. 59)

332a

Exhibit 59

bers of the American Society of Travel Agents feel confident that you will honor our request as being fair and equitable."

EXTRA COPY

Oct 15 1962

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A.C. 294-52.

October 6, 1952.

MEMORANDUM BY SUB-COMMITTEE

ON AGENDA FOR
PRINCIPALS' MEETING

OCTOBER 2, 1952

For record purposes Secretary begs to attach hereto the recommendations submitted for consideration of Principals at their Meeting held on October 2, 1952.

(See over)

ITEM No. 1.

LEVEL OF PASSAGE RATES. A proposal to raise the existing level of rates was favourably received by a majority of the Lines but did not find unanimity.

ITEM No. 2.

AGENTS' COMMISSION. Unanimity could not be reached on a proposal to extend the off-season commission basis to bookings for seasonal sailings.

Exhibit 59

ITEM No. 3.

AGENTS' COMMISSION (WHEN EARNED). It is agreed that when the initial deposit of passage money is collected by an agent outside the United States or Canada the agent collecting such deposit may be allowed the commission accruing on such booking, and no further commission remuneration may be paid thereon except that should a sub-agent induce the passenger to take accommodation at a value greater than the original value of the booking and collect such extra money, the authorised sub-agency commission may be allowed to the sub-agent only on such amount collected by him.

(Continued)

EXTRA COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A. C. 296-52.

October 7, 1952.

COMMISSION TO AGENTS

Letter FROM The Cunard Steam-Ship Company Ltd.,
Liverpool, dated October 6, 1952:—

"Having in mind the revised seasonal dates which have been agreed for 1953 and the bearing such dates have on the scale of sub-agency commissions, we feel it would be desirable for the Secretary to despatch a circular to agents in the U. K. and Eire on similar lines to circular No. 11/51 drawing the attention of

Exhibit 59

agents to the high season periods for 1953 during which the commission payable will be limited to 6%."

NOTE:— Draft circular is attached hereto. Will Lines please advise if they agree that it be despatched to agents in the United Kingdom and Eire.

It will be noted that opportunity has been taken to inform agents that Ellerman's Wilson Line, Limited has become an associate member of the Atlantic Conference.

—2—

TO UNITED KINGDOM AND EIRE AGENTS

CIRCULAR No. 6/52.

ATLANTIC CONFERENCE

(Names of all Member and Associate Member Lines will be shown)

COMMISSION

With reference to circular No. 11/51, dated November 29, 1951, agents are hereby informed that for sailings between the undernoted dates, which are the high-season periods for 1953 for both United States and Canadian Services all classes, commission payable will be 6%:—

WESTBOUND

Monday, June 29 to Saturday, October 17, both inclusive.

EASTBOUND

Monday, April 13 to Saturday, August 1, both inclusive.

335a

Exhibit 59

ELLERMAN'S WILSON LINE, LIMITED

It will be noted from the list of Member and Associate Member Lines that the above Line is now an Associate Member of the Atlantic Conference.

Office of the Secretary,
65, Sandgate Road,
Folkestone,
Kent.

October, 1952.

EXTRA COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A. C. 303-52,

October 13, 1952.

COMMISSION TO AGENTS

(Ref. A. C. 300-52)

Letter FROM Fratelli Cosulich, Genoa, dated October 11, 1952:—

"With reference to A. C. 300-52, we agree with the proposal of the Canadian Pacific."

Letter FROM The Cunard Steam-Ship Company Ltd., Liverpool, dated October 10, 1952:—

"With reference to our letter of yesterday's date under the above heading, we confirm that either the

Exhibit 59

original draft or the revised proposal contained in A. C. 300-52 would be quite acceptable to us."

Letter FROM Goulandris Brothers Ltd., London, dated October 10, 1952:—

"With reference to A. C. 300-52, we agree the amended text."

Letter FROM Holland-America Line, Rotterdam, dated October 9, 1952:—

"We have noted the suggestion of the Cunard Line, and while we are in agreement with the principle of a joint circular to agents in the United Kingdom and Eire, we feel that unnecessary stress should not be laid upon the limitation of commission to 6% during the summer season.

Accordingly, we would suggest substituting the words "commission payable will be 6%" in the Secretary's
(Continued)

—2—

draft by "season rates and commission will apply".

We would also suggest replacing the word "Commission" in the heading by the words: "Seasonal Periods 1953".

Letter FROM Incres Compania de Navegacion S.A., London, dated October 10, 1952:—

"We are in receipt of A. C. 300-52 of the 9th October and agree to the proposed amended form of circular."

337a

Exhibit 59

NOTE:— The circular as amended by the Holland-America Line will read as shown in the attached draft. Will Lines please advise if they agree.

(Continued)

EXTRA COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

TO UNITED KINGDOM AND EIRE AGENTS

CIRCULAR No. 6/52.

ATLANTIC CONFERENCE

(Names of all Member and Associate Member
Lines will be shown)

SEASONAL PERIODS 1953

With reference to circular No. 11/51, dated November 29, 1951, agents are hereby informed that for sailings between the undernoted dates, which are the high-season periods for 1953 *for both United States and Canadian Services all classes*, season rates and commission will apply:—

WESTBOUND

Monday, June 29 to Saturday, October 17, both inclusive.

EASTBOUND

Monday, April 13 to Saturday, August 1, both inclusive.

(Exh. 59)

338a

Exhibit 59

ELLERMAN'S WILSON LINE, LIMITED

It will be noted from the list of Member and Associate Member Lines that the above Line is now an Associate Member of the Atlantic Conference.

Office of the Secretary,
65, Sandgate Road,
Folkestone,
Kent.

October ..., 1952.

EXTRA COPY

Nov 12 1952

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.
A. C. 318-52.

, October 31, 1952.

**MEMORANDUM TO THE LINES
COMMISSION TO AGENTS**

(Ref. A. C. 314-52)

With reference to A. C. 314-52, no objection having been received the circular has today been despatched to agents in the United Kingdom and Eire. With the deletion of the words "To United Kingdom and Eire Agents" and the circular number, it has also been sent to Paris Agents on the agreed list.

Copy is attached hereto.

(Exh. 60)

339a

Exhibit 60

FILE COPY

Feb 20 1953

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A. C. 80-53.

February 17, 1953.

PRINCIPALS' MEETING, CANNES

MARCH 5, 1953

Telegram FROM United States Lines, London, dated February 16, 1953:—

"AC 68-53 please add for discussion uniformity of commission the year round."

ATLANTIC CONFERENCE

MINUTES OF MEETING

of the

ATLANTIC CONFERENCE

held at the

HOTEL MARTINEZ, CANNES

Thursday, March 5, 1953

(Exh. 60)

340a

Exhibit 60

178.—COMMISSION.

It is agreed that this subject be referred to the Sub-Committee for discussion at its meeting on June 24, 1953.

Extract from Minutes of Sub-Committee Meeting, Atlantic Conference, held in Paris JUNE 24-30, 1953

173.—COMMISSION. Deferred.

FILE COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A. C. 203-53.

June 10, 1953.

MEMORANDUM TO THE LINES

SUB-COMMITTEE MEETING

TO BE HELD AT THE

MONTREUX PALACE HOTEL, MONTREUX

WEDNESDAY, JUNE 24, 1953

AT 10.00 A.M.

A G E N D A

Secretary begs to attach hereto Agenda for the above Meeting.

341a

Exhibit 60

<i>Subject</i>	<i>At the Request of:</i>	<i>A. C. Memoranda</i>
1. RATE SITUATION	—	Prin. Min. 174.
2. COMMISSION	—	Prin. Min. 178.
3. CONFERENCE INFORMATION FOR PUBLICITY PURPOSES	—	Prin. Min. 176.
4. SEA/AIR RELATIONS	—	Prin. Min. 180, A. C. 133-53, 162-53, 176-53.
5. I. C. E. M. SHIPS CARRYING NON-I. C. E. M. PASSENGERS FROM GERMANY	Home Lines	A. C. 202-53.
6. RATES FOR FREIGHT SHIPS—ASSOCIATE MEMBERS	—	A. C. 136-53, 144, 154, 166, 172, 175, 191-53.
7. FRENCH PORT TAXES	American Export	A. C. 161-53.
8. GREEK LINE NEW SHIP	U. S. L.	A. C. 190-53.

Exhibit 62

ATLANTIC CONFERENCE

MINUTES OF MEETING

of the

ATLANTIC CONFERENCE

held at the

HOTEL PRINCE DE GALLES, PARIS

THURSDAY, OCTOBER 1, 1953

191.—SUB-AGENCY COMMISSION ON PREPAIDS.

It is agreed that the matter of commission in connection with prepaids be referred to a meeting of the Sub-Committee to be held in London on Tuesday, October 20, 1953, on the basis of the agreements on commission existing according to Principals' Minute No. 142(a) that sub-agents' commission be increased to 7½% in all classes, except for sailings during the agreed high season periods. In the meantime the Holland-America Line agrees not to sell prepaids with guaranteed space during the high season 1954 until November 20, 1953, and the other Lines agree during this period to be governed by T. A. P. C. Circular No. 229 dated March 23, 1951.

The above is without prejudice to the right of any Line to request arbitration in the event of agreement not being reached at the October 20 meeting.

343a

(Exh. 64)

Exhibit 64

EXTRA COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A. C. 91-55.

March 24, 1955.

**COMMISSION WHERE PART PAYMENT
COLLECTED BY DIFFERENT AGENTS**

Letter FROM Secretary Mayper, Trans-Atlantic Passenger Conference, New York, dated March 21, 1955:—

"Sub-Committee Minute No. 192 requested The Trans-Atlantic Passenger Conference to investigate and report on the above matter.

After discussion of various aspects of the question raised, it is the opinion of the Lines, as indicated in our Minute No. 3469, that the dividing of commissions between agents should not be authorized."

(Exh. 66)

344a

Exhibit 66

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A. C. 85-56.

February 9, 1956.

MEMORANDUM TO THE LINES

**PRINCIPALS' MEETING
TO BE HELD AT THE
HOTEL PRINCE DE GALLES, PARIS
ON
THURSDAY, MARCH 1, 1956
AT 10:00 A.M.**

A G E N D A

Secretary attaches hereto agenda for the above meeting.

February 9, 1956.

A. C. 85-56.

Subject
8. COMMISSIONS

At the Request of:
Swed. American

A. C. Memo-
randa
A. C. 73-56

345a

Exhibit 66

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.
A. C. 107-56.
March 5, 1956.

PRINCIPALS' MEETING

PARIS, MARCH 1, 1956

Cable TO Secretary Mayper, New York, dated March 1, 1956:—(Despatched from Paris)

"Following are decisions Principals' Meeting held here today. Follow Agenda items A. C. 85-56.

• • • • •

8. No minute.

• • • • •

15. Agreed Committee from Canadian Pacific, French Line, Cunard, Holland-America, Home Lines, Italia and United States Lines meet delegation from I. C. C. T. A. about middle September date and place to be communicated to committee by Secretary after consultation with Chairman and Maxwell. Report will be circulated by Secretary.

• • • • •

Exhibit 66

ATLANTIC CONFERENCE

MINUTES OF MEETING
of the

ATLANTIC CONFERENCE

held at the

SAVOY HOTEL, LONDON

MONDAY, MAY 7, 1956

264.—APPOINTMENT OF GENERAL AGENTS.

No unanimity could be obtained to a proposal that Lines table with the Secretary lists of General Agents outside the territory defined in Article 1(b)(i) of the Agreement. Lines will give consideration to the revision of existing agreed general agency points and it is agreed that the question be considered by the Sub-Committee at a later date.

C O N F I D E N T I A L

LONDON, May 7, 1956.

AGENCY COMMISSION

It is agreed that sub-agent's commission on the sale of passenger tickets be revised to 7% all year and that no announcement will be issued before May 18, 1956. A circular in the following terms will be despatched on that date to agents in the United Kingdom, the Republic of Ireland, and Paris, by the Secretary of the Atlantic Conference and

Exhibit 66

to agents in the United States and Canada by the Chairman and Secretary of the Trans-Atlantic Passenger Conference, New York:—

COMMISSION ON THE SALE OF
PASSENGER TICKETS

The Member Lines announce that it has been decided to introduce a uniform rate of agency commission on the sale of passenger tickets instead of the different rates paid respectively for summer season and off-season sailings as at present.

Effective immediately for eastbound sailings on and after April 1, 1957 and for westbound sailings on and after June 1, 1957 the rate of commission is increased from 6% to 7%. 7% commission will also be applicable to all sailings after the end of the 1957 summer season.

For your advance information the summer season periods in 1957 have been established as follows:—

(Europe) Westbound: June 1 to October 31 both inclusive

Eastbound: April 1 to August 31 both inclusive

(North America) Eastbound: April 1 to August 31 both inclusive

Westbound: June 1 to October 31 both inclusive

From Canadian ports (except Quebec and Montreal) the eastbound commencing date will be April 8, 1957.

For open prepaids and open tickets issued on or after April 1, 1957, the commission payable will also be 7%.

Exhibit 67

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,
KENT.

A. C. 364-57

September 24, 1957.

MEMORANDUM TO THE LINES

**INTERNATIONAL CONSULTATIVE COUNCIL
OF TRAVEL AGENTS**

With reference to A. C. 99-57, a Committee from the Atlantic Conference represented as shown hereunder:—

CANADIAN PACIFIC

Mr. E. S. Spackman

CIE. GENERALE

Mr. J. W. H. Townshend

TRANSATLANTIQUE

THE CUNARD STEAM-

Mr. B. Loth

SHIP COMPANY LTD.

Mr. J. L. Whitehead

HOLLAND-AMERICA

Mr. R. Scott

LINE

Mr. W. Miechielsen

ITALIA

Mr. C. Sollinger

UNITED STATES LINES

Mr. W. J. D'Olier

Secretary, Atlantic

Mr. H. C. Woodley

Conference

Mr. W. H. Roper

met in Paris on Friday, September 20, the following delegation from I. C. C. T. A.:—

Mr. H. H. Robinson

Thos. Cook & Son Ltd.

and A. B. T. A.

Mr. R. W. Hemphill

President, American Society of
Travel Agents

Exhibit 67

Mr. W. F. McGrath	A. S. T. A.
Mr. T. J. Donovan	Past President, A. S. T. A.
Mr. Tony Piscatella	A. S. T. A.
Mr. de Sayve	Cie. Internationale des Wagons-Lits
Mr. Ray de Night	American Express Co. Inc.
Mr. Emilio Lucchesi	President, Fédération Internationale des Agences de Voyages (F. I. A. V.)
Mr. Eugene Fert	Vice President, F. I. A. V., Geneva.
Mr. F. B. Kaeppler	German Association of Travel Agents
Mr. Knut Wijk	Union of Nordic Travel Bureaux Assocn.

In the Chair Mr. H. H. Robinson

1. *Matters arising out of the meeting held in London on September 11, 1956—(A. C. 367-56)*

- (a) *Standardization of Tickets.* Mr. Robinson enquired if any further progress had been made towards the adoption of a standard ticket. Mr. D'Olier, acting as spokesman for the Atlantic Conference Committee, stated (as was agreed by the A. C. Committee at a meeting between themselves earlier in the day) that a standardized form of eastbound ticket had been agreed and that it may be put into use by some Lines in the near future. Some of the other Lines may probably do so when the stocks of their present tickets are exhausted. In regard to a standardized westbound ticket, the ICCTA delegation was informed that on account of the varying Government regulations in Europe this would be more difficult to achieve.

Exhibit 67

- (b) *Documentation of Passengers.* ICCTA were informed that Regional Committees had been appointed in several countries with a view to securing some simplification of documentation. As the negotiations have to be conducted through Government Departments, and in some instances legislation would be required, speedy results are not to be expected. Progress is, however, being made.

Mr. Robinson expressed the hope that, in the interests of simplification, Lines would adopt a uniform practice in the lettering of decks and the numbering of rooms. He was informed that to do so for existing tonnage would be very difficult and expensive and it might in some cases lead to confusion. It was stated, however, that some Lines in introducing new ships had already made changes from their previous system to conform to the practice of the majority of the Lines.

Under this item Mr. McGrath referred to a facility existing in the United States in respect of bookings effected by agents for domestic airlines of forwarding remittances for all lines through one regional Bank. He stated that IATA were looking into this matter with a view to extending it to all members of IATA, and Mr. McGrath strongly recommended that the Atlantic Conference Lines should investigate the possibility of introducing a similar arrangement applicable to all Atlantic Conference Lines.

- (c) *Agency Appointment Forms.* With reference to para. 2 on pages 3 and 4 of A. C. 367-56, Mr. Robinson enquired what action had been taken on the various points enumerated therein. ICCTA were advised that until the Atlantic Conference has rec-

Exhibit 67

ommendations from the T. A. P. C., the A. C. Committee were not in a position to discuss the matter.

- 1(d) *Sea/Air Interchange.* Mr. Robinson asked for information as to the present position and he was informed that the Atlantic Conference is still waiting for the Airlines to submit a draft agreement which in December last they had undertaken to prepare. ICCTA were advised that the A. C. Committee understood the question was to be discussed at an IATA meeting which is now being held in Miami. It is, therefore, hoped that some advice will be received from IATA in the near future.

2. *New Points for discussion.*

- (a) *Plans for development of westbound traffic.* Mr. Robinson stated that this question arises from the recent decision of the British Government to permit the £100 travel allowance to be used if desired for travel to the United States and Canada. He enquired if the Lines had any plans for stimulating traffic, such as:—

- (i) Inclusive tours with a higher rate of commission, which is the present practice of the Airlines. See para. 2(e).
- (ii) Special rates at a period of the year when demand for space both eastbound and westbound is not heavy.

It was recognized by all that this creates a problem as the time of the year when space in both directions is available is during the winter when the

Exhibit 67

majority of passengers using their allowance for visiting North America would be unlikely to travel. The members of the A. C. Committee felt that this is not a Conference matter and that it should be left to the individual Lines.

(iii) Cruise-ships calling at, for example, New York, Philadelphia, Boston and possibly Miami.

Mr. Robinson was informed that it is improbable that Lines would have tonnage available for such cruises.

(b) *Handling Fees.* Mr. Robinson stated that this question had been brought forward by ABTA who were of opinion that the present handling fee of 17/6d. (\$2.50) which is now paid in the United Kingdom should be increased to at least \$2. Left with the Atlantic Conference for consideration.

(c) *Servicing of Travel Agents.* Mr. Robinson expressed the opinion that there is a feeling among many travel agents that, outside of the United Kingdom, they receive better service from the Airlines than the Steamship Lines, and that the Airlines' representatives visit their agents more frequently than the representatives of the Steamship Lines. It was stated that this was a matter for the Steamship Lines individually and that they would no doubt take all necessary steps to protect their own interests.

Mr. Donovan repeated his request, as reported in para. 5 of A. C. 367-56, that Lines' addresses and telephone numbers should not appear on folders and other printed matter which is supplied to agents. This was supported by Mr. Hemphill. Mr. Robin-

Exhibit 67

son stated that this question referred more to literature distributed in the United States and Canada. It was pointed out that this is not a Conference matter and must be left to each individual Line.

- (d) *Allocation of space to Tour Operators.* Mr. Donovan stated that Tour Operators in the United States and Canada complained about the delay in advising room numbers when space has been guaranteed and made a strong request that the period of time which elapses between the guarantee and the announcement of the actual room numbers should be considerably curtailed. Mr. Donovan was advised that this is a matter for action by individual Lines.
- (e) *Commission.* Mr. Robinson referred to the discussion on this subject at the last meeting (A. C. 367-56) and expressed disappointment that no action had been taken by the Atlantic Conference. Mr. Hemphill, President of ASTA, and Mr. Donovan, Past President, dwelt at length on the increasing costs which are falling upon agents in North America and asked for the reply of the Conference to their request that the following scale of commission be approved by the Atlantic Conference:—
- (i) 7½% commission on all point to point sales except for business originating in the United States and Canada which would be 10% in view of the fact that agents' operating costs there are much higher than in Europe.
 - (ii) 10% on inclusive tours.
 - (iii) 10%, as presently applies on cruises to the West Indies, to be extended to cover all cruises.

Exhibit 67

To substantiate their concern and justification for their claim for an increase in commission, the members of ICCTA made reference to an analysis prepared by ASTA, dated September 9, 1957, of the financial status of the travel agent industry in the United States and Canada, copies of which they stated they had sent to each Atlantic Conference Line.

Mr. Piscatella of ASTA, who was apparently largely responsible for compiling the report, was called upon to elaborate upon it.

Assurances were given by the A. C. Committee that the views of the ICCTA delegation would be brought to the attention of the Atlantic Conference at their next meeting to be held in Lisbon in October 1957.

(Exh. 68)

355a

Exhibit 68

FILE COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."

Telephone: 4334

65, SANDGATE ROAD,

FOLKESTONE,

KENT.

A. C. 80-58.

February 22, 1958.

PRINCIPALS' MEETING, CANNES

THURSDAY, MARCH 13, 1958

AGENDA

(Ref. A. C. 78-58)

Cable FROM American Banner Lines, Inc., New York,
dated February 21, 1958:—

"Your A. C. 44-58 in connection points one two and
three suggest to include discussion agents' commis-
sion."

ATLANTIC CONFERENCE

Minutes of

SUB-COMMITTEE MEETING

held at the

HOTEL MARTINEZ, CANNES

MARCH 11, 1958

S. C. Minutes 267-274.

(Exh. 68)

356a

Exhibit 68

271.—SIMPLIFICATION OF SALES.

It is agreed that Secretary will prepare a suitable form of questionnaire for completion by the Lines to enable him to collate data concerning Lines' present practices in regard to the nomenclature of decks, cabins, berths, etc. On receipt of this information Secretary will circulate it to the Lines for consideration by the Committee already appointed for the standardization of tickets and deposit receipts.

EXTRA COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A. C. 262-58.

September 3, 1958.

AGENCY COMMISSION

Cable FROM Mr. R. H. Hering, Executive Vice President, American Society of Travel Agents Inc., New York, dated September 2, 1958:—

"In face acutely rising costs now more imperative than ever that immediate consideration be given at your September 4 and 5 meeting to increasing commission rates for North American agents to enable them continue adequately promote and sell trans-atlantic steamship. Request official notification outcome Conference discussion."

(Exh. 68)

357a

Exhibit 68

COPY

September 4, 1958.

Dear Sir,

I am in receipt of your cable of September 3, I have transmitted its contents to the Member Lines.

Yours faithfully,

(W. H. Roper)
Secretary.

Mr. R. W. Hemphill,
President,
American Society of Travel Agents, Inc.,
501 Fifth Avenue,
New York 17, N. Y.

EXTRA COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

A. C. 310-58.

September 22, 1958.

STEAMSHIP ALL EXPENSE TOURS TO EUROPE

Letter FROM Mr. R. A. Kilby, American Banner Lines,
Inc., dated Paris, September 19, 1958:

"Attached please find photocopy of a letter which I
have received from Mr. A. L. Simmons, of Gateway
Holidays, contents of which speak for themselves."

Exhibit 68

NOTE: The letter referred to reads:—

"I am very much concerned about what is happening in the field of escorted tours to Europe via ship. As you know, this year for the first time, we inaugurated the motorcoach tours of Europe for 35 days for as low as \$685.00. These have been extremely successful. We will book before the year is over practically 1700 people. However, I am rather surprised to see the large number of bookings via air.

I am attaching hereto our usual advertisement which has been appearing in the New York papers, as well as out of town newspapers insofar as Gateway Holidays are concerned. We have always stressed steamship accommodation. The number of bookings made by air has been relatively small up until this year. We find now that more than 20% of such bookings have been by air. In all probability it will increase before the year is over.

Next year we expect there will be a larger percentage of persons travelling for pleasure using air transportation. A few years ago this was unheard of. Let us analyze the reason for it. It is true, of course, that the economy fares are bound to cut into steamship fares, but this is not the only reason.

I am attaching hereto a tear sheet of KLM which is typical of many of the airlines in creating and developing tour business for the tour operator. This mind you is of no expense to the tour operator. You can pick up the Sunday paper in New York or for that matter any metropolitan centre in the United States and you will find many of the airlines advertising these all expense tours. It must be helpful to them. Other-

Exhibit 68

wise, this would not be done. In addition to the support that a tour operator receives from the airline in connection with the carrier advertising these tours, they will print up literally thousands and thousands of folders according to IATA regulations and all the tour operator has to buy is 5,000 of these folders. The distribution of these folders is also done by the individual carriers.

Finally and very important, is the fact that in addition a tour operator gets 10% on the transportation on inclusive tours. Since the minimum commission is 10% to the travel agent, and this year it has gone up to 12½% and 15%, we do not have to add anything on to the tour as is the case with the steamship transportation. On all steamship tours we must add the additional 3% which we pay the travel agent, and which we do not receive from the steamship lines, and which of course makes the cost of the steamship tours that much higher.

All of these factors mitigate against the steamship tours. For the first time in over 25 years we are considering very seriously to doing away with our usual escorted tour program. I am enclosing herewith a folder which costs us in the neighbourhood of \$7,000.00. The day is past when this can be continued without any help from a carrier.

I am citing just a few of these examples to give you an indication of the difficulty we are having and continue to have unless something is done by the members of the Trans-Atlantic Passenger Conference to provide some relief to the tour operator who is the only one, of course, that is creating and developing tour busi-

Exhibit 68

NOTE: The letter referred to reads:—

"I am very much concerned about what is happening in the field of escorted tours to Europe via ship. As you know, this year for the first time, we inaugurated the motorcoach tours of Europe for 35 days for as low as \$685.00. These have been extremely successful. We will book before the year is over practically 1700 people. However, I am rather surprised to see the large number of bookings via air.

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Next year we expect there will be a larger percentage of persons travelling for pleasure using air transportation. A few years ago this was unheard of. Let us analyze the reason for it. It is true, of course, that the economy fares are bound to cut into steamship fares, but this is not the only reason.

I am attaching hereto a tear sheet of KLM which is typical of many of the airlines in creating and developing tour business for the tour operator. This mind you is of no expense to the tour operator. You can pick up the Sunday paper in New York or for that matter any metropolitan centre in the United States and you will find many of the airlines advertising these all expense tours. It must be helpful to them. Other-

Exhibit 68

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Finally and very important, is the fact that in addition a tour operator gets 10% on the transportation on inclusive tours. Since the minimum commission is 10% to the travel agent, and this year it has gone up to 12½% and 15%, we do not have to add anything on to the tour as is the case with the steamship transportation. On all steamship tours we must add the additional 3% which we pay the travel agent, and which we do not receive from the steamship lines, and which of course makes the cost of the steamship tours that much higher.

All of these factors mitigate against the steamship tours. For the first time in over 25 years we are considering very seriously to doing away with our usual escorted tour program. I am enclosing herewith a folder which costs us in the neighbourhood of \$7,000.00. The day is past when this can be continued without any help from a carrier.

I am citing just a few of these examples to give you an indication of the difficulty we are having and continue to have unless something is done by the members of the Trans-Atlantic Passenger Conference to provide some relief to the tour operator who is the only one, of course, that is creating and developing tour busi-

Exhibit 68

ness to Europe via the steamship lines. The day has passed when such members can sit back and hope there might be a change. Yes, there will be a change but not for the better. I am extremely discouraged and have been for the past few years at the all sufficient attitude by steamship lines.

We are, I believe, one of the largest of the tour operators. I am sure you will agree with me and so will all of the other steamship lines that we have done a good job for most of them. Gateway Holidays, for your information, has been successful on all of the departures which have been weekly, "semi-weekly right through from March and will be until the end of November, with a departure possibly in December.

I am writing this letter to you, Bob, merely as an illustration of the handicaps which are imposed upon us by the Conference Lines, and unless a modification is made in the rigid rules which you impose upon tour operators, the day won't be far when tour operators like ourselves will have to give up planning and creating tours via ship for the expense and non-cooperation on the part of the steamship lines will not warrant such promotion in the future.

I send this to you as a matter for serious consideration."

NOTE: The enclosures referred to in the above letter were not included.

361a

Exhibit 68

EXTRA COPY

ATLANTIC CONFERENCE

Telegrams: "Atlantico."
Telephone: 4334

65, SANDGATE ROAD,
FOLKESTONE,
KENT.

October 15, 1958.

CONFIDENTIAL

MEMORANDUM TO THE LINES

AGENCY COMMISSION

As agreed upon at the meeting of Principals on October 9, the following letter was despatched on October 13 to Mr. R. W. Hemphill, President, A.S.T.A., New York:—

"By unanimous decision of the Lines of the Atlantic Conference I am instructed to say that your two cables of September 2nd and 3rd have been carefully considered.

The maintenance of sound economy in the Atlantic passenger steamship trade is vital to the Lines and to their agents. The Lines recognise and accept this heavy responsibility involving an immense burden and financial risk as regards capital outlay, operating costs and administrative expenses. You will fully appreciate that these economic difficulties have increased most heavily since the war and are greater now than ever before in the Atlantic shipping trade.

It is the unanimous decision of the Lines of this Conference that, having in mind the economic well-being of the trade as a whole, study will continue to be given to the welfare of the travel agents."

Exhibit 68

(Emblem)

(Letterhead of International Air Transport Association,
New York 36, New York.)

November 7, 1958

Mr. Lewis J. Stark
Auditor
Trans Atlantic Passenger Conference
80 Broad Street
New York 4, N. Y.

Dear Mr. Stark:

With reference to our telephone conversation I take the pleasure of sending you a verifaxed copy of Attachment "A" of IATA Traffic Conference Resolution 810—Sales Agency Rules. This Attachment shows the level of the IATA agency rate of commission as applicable in different areas of the world and for different forms of air transportation such as passenger, cargo, as well as charter international transportation.

With reference to Paragraph (1)(c) dealing with the agency rate of commission for the sale of inclusive tours, IATA Traffic Conference Resolution 810e establishes an over-riding commission of not exceeding 3% in Traffic Conference 1 and 3 areas. For Traffic Conference 2 area Resolution 810e establishes additional commission which in turn takes the form of various discounts established by Resolution 084h—Special Fares for Inclusive Tours.

I trust that the above information will answer your inquiry. Should you however have any further questions please do not hesitate to call upon me at any time.

Yours sincerely,

/s/ M. A. BUDNY
M. A. Budny
Agency Officer

Exhibit 90

—11—

Q. [Mr. Blackwell] What is their rate of commission?

A. [Mr. Hollander, Travel Agent] The present rate of commission is 7 per cent on International, because they are only International Air Transportation and 3 per cent, making 10 per cent in toto, if the air ticket is sold in conjunction with the sale of a land portion.

Q. Does that mean that the land portion there means the same as an all-inclusive tour? A. Both. I mean, either an all-inclusive tour or just a land portion.

Now, there are certain rules. Cost of land portion must be at least 20 per cent of the cost of the air ticket.

—12—

Q. This 3 per cent additional commission that the IATA carriers allow for the land portion of tours. Is that equally available from the Trans-Atlantic Passenger Conference? Do they have the same practice? A. No, they do not.

—47—

When it comes to a steamer, sale of a steamship ticket, for that it is a job. And I mean a serious job.

A client wants to go cabin class—questions: outside, inside, upper, lower, shower, toilet, forward, aft—all kinds of items.

Finally, if an agent was lucky to get space, he got a guarantee with no room assignment—and here starts the story of explanation to a client why he doesn't have his

—48—

room number, what kind of guarantee he has; many clients want to see the room, and frankly speaking, I don't blame them.

Exhibit 90

So you have to go with him to the ship, show him the room. And what usually happens, a very helpful steward shows him a first class room when the client is booked in cabin class.

And here the wife says, "I don't want to go in this cabin class when such a beautiful room is on a ship." An agent has to explain this costs \$150 more per person. Here air travel usually started.

So frankly speaking, I don't think that I would be far from making a true statement if I would say that to sell a steamship ticket is almost ten times as difficult as selling an air ticket.

.

—63—

By Mr. Blackwell:

Q. Mr. Hollander, you indicated that there is, to some degree, a hard core of travelers that have extremely strong preferences for either air or sea travel.

Is there any percentage of travelers going to Europe

—64—

that can be swayed by effective persuasion to travel either by water or by air? And if so, how are they in fact, swayed?

A. A travel agent can definitely influence a client to what type of—what mode of transportation to use, to his benefit.

When I say "his," I mean the traveler's benefit. Knowing the client, knowing his character, his conditions, financial and otherwise, he knows better than the traveler in many cases, what is better for him.

A travel agent planning an itinerary, according to the itinerary, can suggest, "Go over one way, come back the other way." All this depends on the length of time, class used on this ship, and by plane.

Exhibit 90

And I feel, in my office it is a principal rule, we never will give any information and consultation by telephone, and we try to bring the client to our office to sit at the desk with a sales person, to try to map out his itinerary, to his benefit. And here is where we can influence a client how to travel and what to use.

.

—84—

Q. [Mr. Sisk] Now, when a retail agent offers FIT travel to the public; he can obtain what commission from the

—85—

TAPC Lines? A. Seven per cent.

Q. What commission does he obtain from the airlines?

A. On the package tour, 10 per cent. I mean on FIT then.

Q. On FIT— A. Ten per cent.

.

—133—

Q. [Mr. Mayper, former TAPSC Chairman and Secretary] At one time you said that in connection with your discussion of the greater difficulty in handling steamship transportation over air line transportation, you indicated, as I understood it, that you require a personal confrontation between the prospective passenger and the carrier?

A. No.

Q. Or between the agent and the carrier? A. The sales person in my office; that's what I mean.

Q. Is that generally true? A. I would say generally it is advisable for us to have the client, because on a cold letter or telephone call, giving him a room number and having to tell him, "This is an inside room without facilities,"

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I will just say, "Thanks, goodbye." And hang up.

Exhibit 90

When we get him to the office and we can talk to him and explain to him "although this room doesn't have facilities, but five steps from this you have public bath and you have a nice sized room," we can convince him to take it.

Q. I misunderstood your answer then before. I thought you said that in order to show your greater difficulties that you personally, the agent, let's say, not the customer, had to make—have a personal sort of confrontation at the steamship office. A. No.

Q. That is not what you meant to say? A. I didn't want to say that.

Q. What you meant to say, as I understand it now, is that the client and the agent had to get together and talk things over? A. Correct.

Q. With air line customers you don't have to do that? A. In a much less respect because I have nothing to say to him. He takes the air passage and I cannot prove to him that Pan American is better than TWA and Air France. And the seat is always the same distance leg room, the same

—135—

width. I have nothing to talk about.

Q. Is the amount of business you do, of gross bookings, done to a greater extent with prospective passengers by telephone or by visits to your office? A. You cannot conclude a transaction just on a telephone call outside of the sale of a ticket to Miami or to Los Angeles. And though things are usually combined, if a client is in this area, he will perhaps call up once, come once, call ten times, come four times again.

Q. That's exactly the same? A. This is the procedure.

Q. So that generally speaking, the prospective passenger, the client, does come to your office and does talk to someone in your office about the transportation? He has

Exhibit 90

got to make a deposit and then he has got to select the date and get tags and does a lot of other things; is that correct?

A. Absolutely, absolutely.

Q. That may be different with someone who has been your customer for a number of years, and he calls up and says, "Please get transportation?"

But other than that type of person, the confrontation in your office is a customary thing? A. For people from

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this area.

Q. All right. A. Outside we have a large correspondence with them.

Q. But it is not much greater then, for steamship sales, than for air sales? I mean from the point of view of personal confrontation only? A. May I explain—just for clarification: the client can come to the office several times, but he will take more time about steamship space and, of course, his land portion, whereas his air transportation, there is very little that he has to say or that I have to say to him.

.

Q. You indicated, I think, in answer to a question that Mr. Sisk asked, whether increased commission would be an incentive or would increase your steamship sales, and you thought that it would be an incentive in connection with tours.

How do you compare that answer with your prior answer, to a question Mr. Blackwell asked of you—how do you consistently compare it when you said that the trend in recent years has been towards air line transportation across

—137—

the Atlantic, as compared with steamship, jets—you didn't

Exhibit 90

say this, jets—and the enormous publicity that the air lines are giving to all these matters.

If you have difficulty in selling steamship transportation for this, that, or the other reason, how would an increase in commission enable you to sell more steamship transportation when the whole trend, as you yourself have indicated, is in the opposite direction? A. I think I can answer this question very clearly.

I never expect that even if the steamship commission will be 15 or 20 per cent, that we can change the trend. I never expect that the increase can change the percentage of sales so significantly in the first year to jump from 20 to 40. But I do believe that this would start an increase to a certain degree.

But I feel—I am not asked this question, but perhaps to you, Mr. Mayper, I can say—with the increase of this commission, other things have to go which the steamship lines have to do to help us to sell the merchandise.

I am coming again to this field. I don't want to—to advise, but steamship cannot be considered now as transportation alone. Steamship passage must give the client,

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who decides and wants to decide to go by steamer—as one of the lines plugs the slogan, "The trip is part of your vacation." But unfortunately, this is more or less only on paper.

Sea Trans-Atlantic transportation should be handled the same way as a Caribbean cruise, to give him fun on the voyage.

If a travel agent gets this additional commission, who sells the client, and tells him, "You really start your vacation the moment you get on the ship," we have something to say, and we have something to sell.

Exhibit 90

And I believe, Mr. Mayper, that agents have to get this incentive, and I don't know for sure, but perhaps Matson Line will somehow have us—it means carriers and agents—whether a meager 3 per cent means something.

• • • • •

(Exh. 96)

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Exhibit 96


(See Opposite) 

Exhibit 96

TABLE I

TRANS-ATLANTIC PASSENGER STEAMSHIP VOYAGES
SOLD IN THE UNITED STATES(1)-1955-1960 INCL.

YEAR	TOTAL NO. OF PASSENGER BOOKINGS (2)	TOTAL GROSS REVENUE	NO. OF BOOKINGS THROUGH SUB-AGENTS (3)	TOTAL REVENUE ON BOOKINGS THROUGH SUB-AGENTS(3)
1955	451,947	\$ 121,900,412	341,966	\$ 96,065,650
1956	442,082	118,338,878	343,306	93,159,642
1957	426,171	116,474,146	333,201	90,843,449
1958	433,328	121,068,153	341,870	94,825,175
1959	402,137	115,855,677	313,878	89,959,291
1960	445,590	133,352,374	354,436	106,495,363

NOTES:

- (1) By the respondents listed on Table VIII, page 71 and subject to the Notes accompanying that Table.
- (2) Bookings on cruises are not included. Round trip voyages are counted as two passengers. As noted specifically in Notes to Tables II-VIII, "Prepays" have been included as bookings by some lines in the year the prepayment deposit was received, although actual bookings in the sense of ticketing did not occur until a subsequent year.
- (3) In some instances, as noted specifically in the Notes to Tables II-VIII, the number of bookings through sub-agents and the gross revenue thereon has been derived by applying to total bookings and gross revenue an average percentage based upon the particular respondent's experience with its sub-agents.

Exhibit 96

TABLE II (cont'd)

LINE	FIRST CLASS			CABIN CLASS			TOURIST CLASS			ONE CLASS	
	Total	Through	Sub-Agents	Total	Through	Sub-Agents	Total	Through	Sub-Agents	Total	Through
Norddeutscher L. (North German Lloyd)											
D. Norrskog A. (Norwegian America)	2347			2553			9344			243	
Spanish A. B. Svenska A.P.L. (Swedish American)	405	64					845	464			
United States Lines	17730	11763		18691	13623		20333	16373		670	337
Zim Lines			181					1567			

(From Exh. 96)

TOTAL BOOKINGS FOR ALL CLASSES BY LINE AND TOTAL BOOKINGS THROUGH SUB-AGENTS, 1955 - 1960 INCL.

LINE	1955	1956	1957	1958	1959	1960
	Total Through Bookings Agents	Total Through Bookings Agents	Total Through Bookings Agents	Total Through Bookings Agents	Total Through Bookings Agents	Total Through Bookings Agents
✓ American Export	52,066	32,486	32,168	34,172	32,300	42,581
✓ American President (not TAPSC)	99	105	79	81	161	119
✓ Canadian Pacific	3,842	5,338	6,598	6,551	7,193	7,311
✓ Compagnie G.T. (French)	44,560	41,237	34,369	39,500	28,304	26,009
✓ Companhia C.N. (Portugal)	-	-	631	706	775	997
✓ Cunard	135,136	139,199	128,465	127,244	117,839	115,972
✓ Greek	11,908	11,857	11,409	10,732	12,301	8,066
✓ Hamburg Atlantic	-	-	-	4,119	10,056	9,668
✓ Hone	14,337	10,135	8,134	7,410	-	-
✓ Italia S.A.N. (Italian)	62,324	59,988	54,801	56,343	42,136	61,196
✓ Johnston Warren	1,005	1,088	1,274	1,100	1,075	-
✓ National Hollenlic American	-	5,510	6,974	7,182	7,653	7,374
✓ Nederlandsche A.S.M. (Holland-America)	28,135	29,434	35,805	35,361	36,122	50,310

(Continued on next page)

(Continued on next page)

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Exhibit 96

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The following are extracts from *United States Lines* correspondence with respect to Agents' commission:

ATLANTIC PASSENGER STEAMSHIP CONFERENCE PRINCIPALS MEETINGS.

MAY 3, 1960—PRINCIPALS MINUTE 378

"Promotion of Sales all agree some action necessary encourage tour traffic and majority favour establish as trial ten percent commission for advertising inclusive tours and provision defray 50 percent cost folders both with strict controls and matter referred TAPSC for positive recommendation for consideration principals October next."

MARCH 10, 1960—PRINCIPALS MINUTE 371

"Item two promotion of sales recommended be referred sub-committee April 26."

"MINUTE 371—PROMOTION OF SALES—In connection with Secretary Knowles' letter of February 15, TAPSC Minute 3856, I attach statement prepared by Mr. de Riesthal who attended the meeting in question."

MEMORANDUM—"The 10% commission on inclusive tours and payment of 50% of the cost of folders were primarily the views of the Holland Line and supported by a few others. However, our position, as well as the majority of lines, was that the matter should receive careful consideration particularly in regard to participation in the cost of printing folders which should only apply during the off-season.

In connection with the 10% commission on inclusive tours operated by member lines, we, as well as many of the others, felt that we should not get into the tour business and it would require a great deal of study before reaching a decision."

Exhibit 96

OCTOBER 10, 1957—PRINCIPALS MINUTE 299

“INTERNATIONAL CONSULTATIVE COUNCIL OF TRAVEL AGENTS

During discussions Cunard said that they are giving very serious consideration to the possibility of something being done by the steamship Lines to meet the present 10% commission by airlines to tour business. They felt that the steamship Lines are seriously handicapped by not giving this concession and it was left that all Lines would consider this point for decision later.”

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MARCH 1, 1956—PRINCIPALS AGENDA ITEM 8 (NO MINUTE)

“COMMISSIONS—The Swedish American Line do not say what they have in mind but you are familiar with our views on this subject.”

“ITEM 8 anticipate Swedish will strongly advocate 7% all year with considerable support stop.”

“ITEM 8 confidentially think no good reason change commission scale in present situation and hope action can be deferred but cannot afford prejudice our position and relations with agents and willing agree 7 percent commission all year if other major lines preponderantly favor stop.”

“No. 8—Commissions: Principals generally agreed that if there was any lengthening of the seasons, something must be done in regard to adjusting commission to agents and, instead of having a Minute, an “Aide Memoire” on commissions, as attached, was drawn up and initialled by all Principals. The only Line who indicated strong objection to an immediate adjustment in commission to 7% all year was Norwegian America

374a-3

Exhibit 96

Line. However, Mr. Henriksen was a party to the "Aide Memoire" and it can be anticipated that at the Sub-Committee Meeting on April 23rd the Norwegian America Line may suggest an alternative, such as 8% during the off season, retaining 6% during the summer season, with the idea of encouraging the booking of more business during the off-season. However, we do not think this will meet with much support."

OCTOBER 1, 1953—PRINCIPALS MINUTE 191

"SUB-AGENCY COMMISSION ON PREPAID AND OPEN TICKETS

I am attaching hereto copy of TAPC memorandum to Passenger Traffic Managers dated August 3 on the above subject.

We have informed Mr. Mayper that we have no objection to the draft letter that he proposes to send to Secretary Roper, which is prompted by differences of opinion in TAPC.

It is our view that commission on open prepaid tickets which cover commitments for space on summer season sailings must be restricted to 6% and that the payment of 7½% commission on such open prepaids would not only violate AC agreements but would open the way for all manner of irregular practice on the part of unethical agents.

We hope you will place this view strongly before the Atlantic Conference before the answer is given to Mr. Mayper's question."

"AGENTS COMMISSION—The officials of ASTA are again pressing the Lines for favorable action on a year-round commission of 7½% and undoubtedly will further their efforts at the Convention in Rome October 26-30.

"AGENTS COMMISSION (cont'd)

Our views on this subject are well known and while we can see no reason to spearhead a drive for higher commission it might be advisable for the Lines to discuss this item at the Principals' Meeting, even if no action is taken.

SUB-AGENCY COMMISSION ON PREPAIDS—We note from your letter of September 14 that you have suggested to Conference that this matter be discussed at the Principals' Meeting and we have nothing to add to our letter of August 6."

MARCH 5, 1953—PRINCIPALS MINUTE 178

"With reference to your letter of January 20 to Mr. Brennan we presume that the subject "Uniformity of Commission the Year Round" has been docketed for discussion but if not will you please have this included on the Agenda.

We do not have any additional items and as soon as the Agenda is received we will comment on the various subjects listed."

"Yesterday we received your letter of February 13th in which you presume that the subject "Uniformity of Commission the Year Round" was included in the Agenda. However, this was not the case but we immediately telegraphed Mr. Roper requesting him to add the item for discussion.

It is anticipated that the matter will be discussed in consequence of a letter from Colonel Gardiner, International Consulative Council of Travel Agents—see A.C. 53-53, in which the question of commission is raised. At the Cunard's suggestion, see A.C. 76-53, the points mentioned by Col. Gardiner will be con-

374a-5

Exhibit 96

sidered by the Sub-Committee prior to the Principals' Meeting.

No doubt there will be a feeling in certain quarters that any uniform commission payable by the steamship companies should be in line with the recommended commission of the Airlines; i.e. 7%. It does not appear that the airlines have actually put this basis into operation; no doubt they are still awaiting acceptance by the C.A.B."

"AGENTS' COMMISSION—While not included on the Agenda listed in A.C. 68-53 we note from A.C. 80-53 that you have requested the Secretary to add this item.

The Agents directly, and through ASTA, are continually pressing the Lines for 7½% commission the year round and as previously mentioned the Situation has been aggravated by the lengthening of the Summer Season periods. As you know we have consistently favored establishing commission of 7½% all year. However, it is not our desire to fight this battle alone, particularly in view of the advance booking situation for the summer season of 1953, and we are prepared to go along with the majority.

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"AGENTS' COMMISSION (cont'd)

In any event we think it would be a mistake to omit this item from the Agenda for although these meetings are confidential, word always seems to get back to some of the leading agents and ASTA officials and, even though favorable action is not taken, they will at least know that the problem is being studied and discussed by the Lines."

MARCH 6, 1952—PRINCIPALS MINUTE 156

"AGENTS' COMMISSION—We have heretofore consistently favored establishing commission of 7½% all year but

Exhibit 96

feel we should no longer carry the banner but instead merely go along with the majority. The decision of the Air Lines to pay 6% commission on Tourist fares as well as the advance booking situation for the 1952 summer season, indicate no advantage in increasing at this time the Steamship commission for the coming summer season. The subject can well be deferred until the Fall meeting."

MARCH 1, 1951—PRINCIPALS MINUTE 142

Files destroyed.

MARCH 2, 1950—PRINCIPALS MINUTE 119

Files destroyed.

ATLANTIC PASSENGER STEAMSHIP CONFERENCE SUB-COMMITTEE MEETINGS:

JUNE 24-30, 1953—S. C. MINUTE 173

"Item 2—COMMISSION: It is assumed that there will continue to be the minority opposition to the uniformity of commission and we can take for granted that some of those Lines who advocated uniformity on the basis of 7½% all the year round, all classes, will wish to compromise as the Airlines did, adopting 7%.

During our talk in London, it was understood that you are opposed to adopting 7% instead of 7½% and I agree that it would look bad as it would appear that we are simply following the Airlines. However, if it should transpire that we are the only Line against, which we doubt, we will let you know so that the matter can again be considered."

"2. COMMISSION—We should continue to advocate 7½% year-round commission. We are absolutely opposed to a compromise of 7% year round and prefer to let commissions stand as they now are rather than accept this compromise."

374a-7

Exhibit 96

—66—

"MINUTE 175—COMMISSION: C.G.T. and Greek Line felt that the matter should be linked with the rate situation. Others, except Cunard and Swedish American Line, considered that if there should be uniformity it should be the same as the Airlines' 7%. Cunard criticised the 7% and reaffirmed that they would like to see 7½% all the year but did indicate that they might be prepared to agree to 7%.

Norwegian America Line did not consider the matter of such importance as it was, as the steamship lines are now paying 7½% against 7% paid by the Airlines and they felt that we should retain this advantage. While not saying so, obviously they did not agree to an increase in the high season commission.

Incidentally, Italia and American Export stated that as long as we could not find a solution to the rate situation they did not desire to have a change in commission.

We reaffirmed our position, favouring the 7½% all the year round, and indicated that we were opposed to following the Airlines' basis of 7%."

JUNE 17-23, 1952—S. C. MINUTE 149

Files destroyed.

JUNE 27-30, 1950—S. C. MINUTE 111

Files destroyed

**TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE
MEETINGS:**

DECEMBER 10, 1953—TAPSC MINUTE 3395

No comment made

FEBRUARY 24, 1954—TAPSC MINUTE 3406

No comment made

(Exh. 96)

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Exhibit 96

JUNE 3, 1954—TAPSC MINUTE 3419

No comment made

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JUNE 28, 1956—TAPSC MINUTE 3596

Approved issuance of TAPSC Agents' circular.

SEPTEMBER 19, 1956—TAPSC MINUTE 3611

Approved correction to Agents' circular referred to in Minute 3596.

JANUARY 13, 1960—TAPSC MINUTE 3856

No correspondence available but agreed.

MAY 25, 1960—TAPSC MINUTE 3919

No correspondence available, but supported decision to have a special committee appointed to study the subject of "Promotion of Sales".

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COPY

PARIS, March 1, 1956

AIDE MEMOIRE—COMMISSION

The Lines feel that when the Sub-Committee is giving consideration to the rate situation, particularly as regards a lengthening of the summer season period, coincidental consideration must be given to the question of the commission payable to agencies throughout the year.

It is realised that whilst a suitable lengthening of the summer season period should ensure an increase in revenue to the Lines it may on the present commission basis correspondingly reduce the remuneration paid to agents.

The relationship of the Steamship Lines with their business-producing agencies is of great importance and any announcement of a lengthening in the summer season period should be accompanied by some equalization in the commission revenue to agents.

375a

Exhibit 98

TABLE I
TRANS-ATLANTIC PASSENGER STEAMSHIP VOYAGES
SOLD IN THE UNITED STATES(1)-1955-1960 INCL.

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- (3) In some instances, as noted specifically in the Notes to Tables II-VIII, the number of bookings through sub-agents and the gross revenue thereon has been derived by applying to total bookings and gross revenue an average percentage based upon the particular respondent's experience with its sub-agents.

Exhibit 100

Apr 20 1961

**ATLANTIC PASSENGER
STEAMSHIP CONFERENCE**

=====
**Minutes of Meeting
of the**

**ATLANTIC PASSENGER STEAMSHIP
CONFERENCE**

held at the

HOTEL MARTINEZ, CANNES

MARCH 9/10, 1961

=====
Principals' Minutes 399-415.

408.—INCLUSIVE TOUR ADVERTISING.

Agreed in principle, as a trial for the year 1962, that, subject to adequate rules and safeguards being submitted by TAPSC and approved by APSC, an allowance may be made to sub-agents operating inclusive tours of up to 50% of the cost of a folder advertising an inclusive tour operated in the period when the round-trip reduction is in operation, with a maximum of \$250. TAPSC is requested to submit its report by June 15, 1961.

Trans-Atlantic Passenger Steamship Bookings RELATIONSHIP OF TOTAL BOOKINGS TO BOOKINGS THROUGH SUBAGENTS

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Exhibit 101

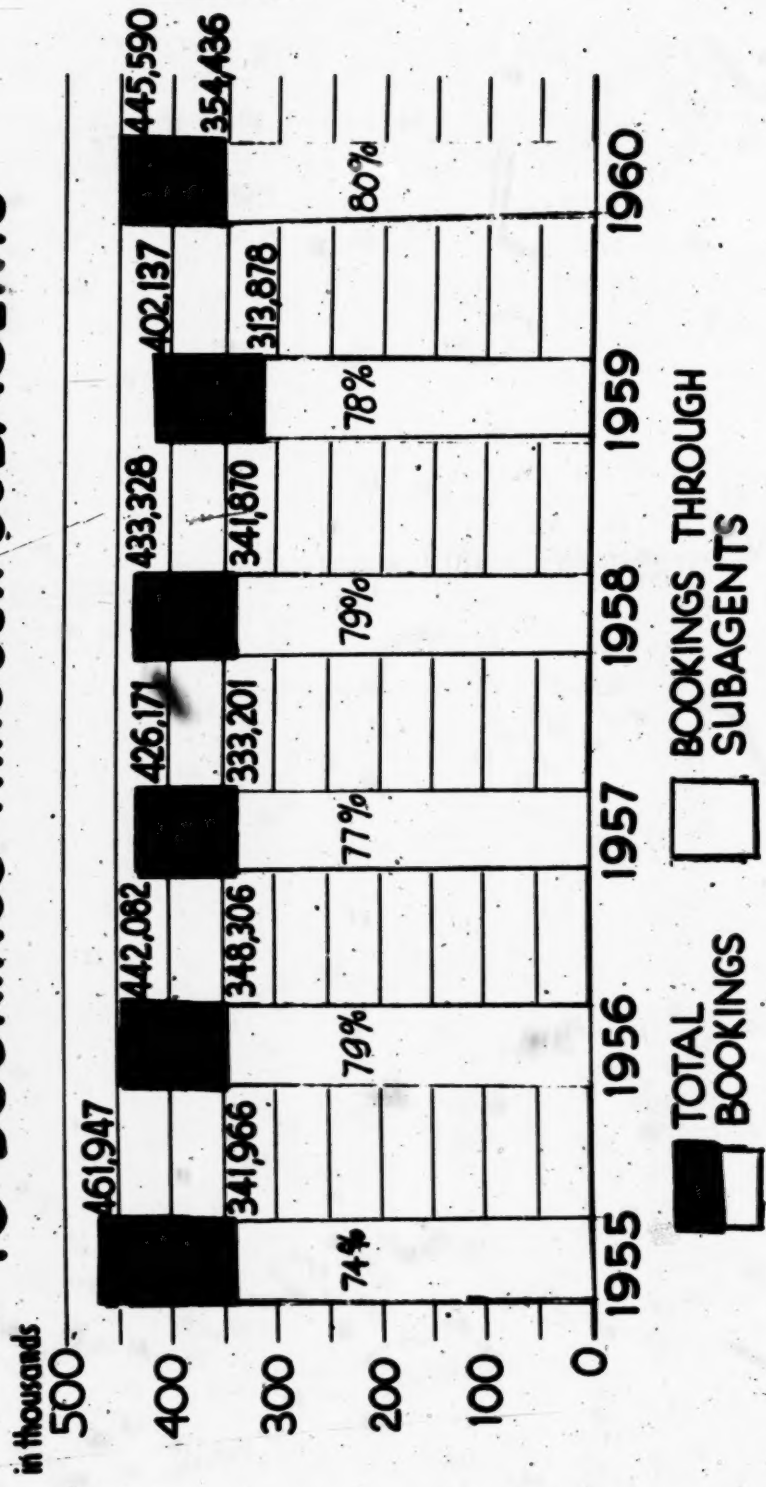
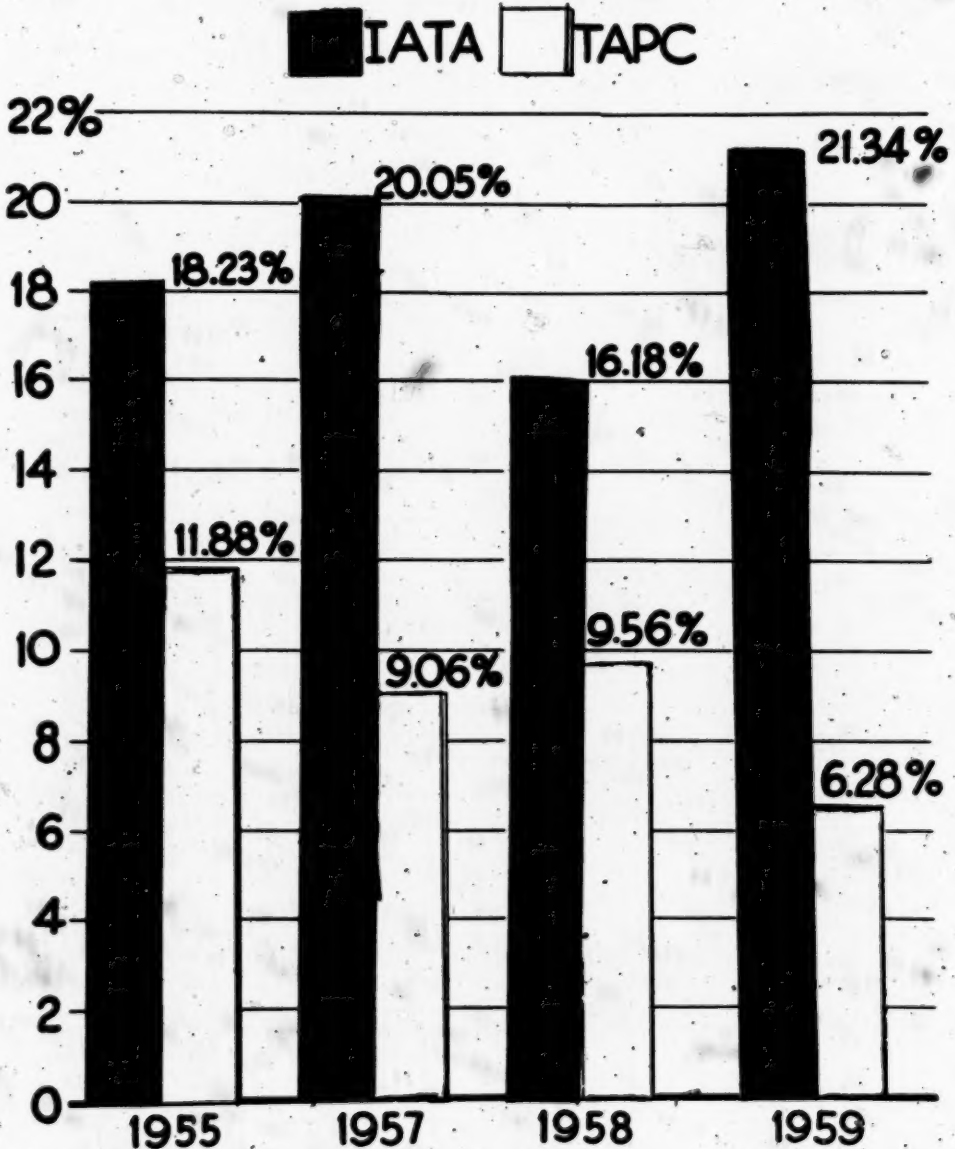


Exhibit 105

RATIO OF IATA & TAPC TO TOTAL COMMISSIONS 1955 - 1959

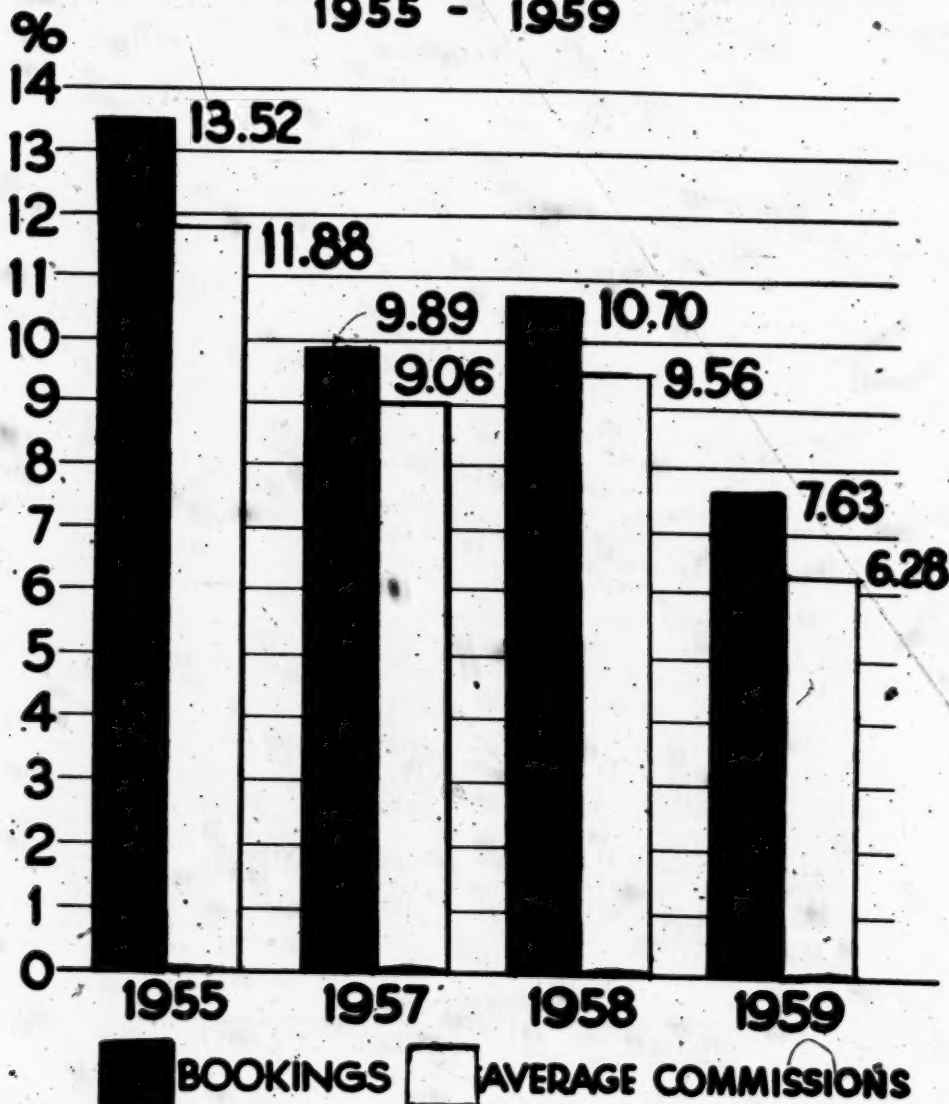


NO FIGURES AVAILABLE FOR 1956 & 1960

American Society of Travel Agents

TRANSATLANTIC STEAMSHIP SHARE OF GROSS BOOKINGS VS. SHARE OF GROSS COMMISSIONS

1955 - 1959



1956 NO FIGURES AVAILABLE

Exhibit 111

P. H. B. Docket No. 873

Exhibit 1
Sheet 1 of 7**TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE**
80 BROAD STREET

Circular No. 268

New York 4, N. Y., August 12, 1960

TO SUB-AGENTS:

SUMMER SEASON PERIODS FOR 1961

The Summer Season periods for both United States service and Canadian service currently effective for the year 1960 will also be applicable for 1961, as follows:

EASTBOUND: April 15 to August 22 inclusive.

WESTBOUND: June 22 to October 31 inclusive.

All other periods are in the thrift season.

RULES FOR THE APPLICATION OF EMIGRANT RATES

Special reduced rates will be available to emigrants residing in Europe, Turkey or Africa who sail from ports in those areas during 1960 or 1961 EXCEPT for sailings between July 1 and October 14 inclusive, under the following conditions:

- (a) A bona fide immigrant must be the holder of or be included in a valid passport or similar document which must either contain or be accompanied by:
- (i) A valid immigration visa authorizing permanent residence in the United States or Canada, or
 - (ii) A valid Canadian medical card, or
 - (iii) A Canadian "medically prescreened" stamp, or
 - (iv) A letter confirming that the immigrant's medical documents have been approved by the Immigration Branch of the Department of Citizenship and Immigration, Ottawa.
- (b) Emigrant rates for children, 1 year and under 12 years, are half the applicable adult rates. Infants' (under 12 months) rates are regular one way rates (no reduction).
- (c) Tickets will be marked "EM" to denote Emigrant rate.

This circular supersedes and cancels Trans-Atlantic Passenger Steamship Conference Circular No. 262, dated July 14, 1959.

AMERICAN EXPORT LINES, INC.
CANADIAN PACIFIC STEAMSHIPS
COMPANHIA COLONIAL DE NAVEGACAO
CUNARD STEAMSHIP COMPANY LIMITED, THE
DONALDSON LINE LIMITED
EUROPE-CANADA LINE
FRENCH LINE
FURNESS LINE
GODWIN AMERICA LINE
GREEK LINE
GRIMALDI SIOGA LINES
HAMBURG-ATLANTIC LINE

HOLLAND-AMERICA LINE
HOME LINES
INCREA STEAMSHIP COMPANY LTD.
ITALIAN LINE
Khedivial Mail Line
NATIONAL Hellenic American Line
NORTH GERMAN LLOYD
NORWEGIAN AMERICA LINE
ORANJE LINE
SPANISH LINE
SWEDISH AMERICAN LINE
UNITED STATES LINES

ZIM LINES**ASSOCIATE MEMBERS**

AMERICAN SCANTIC LINE
ARABIAN LINE LIMITED
BELGIAN LINE
CAIRNS, MOBLE & CO., LIMITED
SWEDISH TRANSATLANTIC LINE

FERDINAND MEDITERRANEAN LINES
HAMBURG-AMERICAN LINE
HYPERION LINES, INC.
MANCHESTER LINES LIMITED

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Exhibit 111

TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE
80 BROAD STREET

Circular No. 272

New York 4, N. Y., February 17, 1961

TO SUB-AGENTS:

CANADIAN PORT WHARFAGE CHARGE

In Circular to Sub-Agents No. 266 dated April 28, 1960, you were advised to collect a port wharfage charge, levied by the National Harbours Board of Canada, from all passengers ticketed to or from Eastern Canadian ports except from those passengers embarking for or disembarking from another point in Canada, United States of America, St. Pierre, Miquelon, Bermuda or West Indies.

The ticket shall hereafter be endorsed "**CANADIAN PORT CHARGE**" or "**CPC**" (not "**Canadian PWT**" as heretofore) and the amount of charge to be collected from each applicable passenger shall remain

\$1.00 per full fare passenger
0.50 per half fare passenger
(no charge for infants)

This circular supersedes and cancels TAPSC Circular No. 266, dated April 28, 1960.

TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE MEMBERSHIP

Effective January 1, 1961, the General Agency representation in North America of COMPANHIA COLONIAL DE NAVEGACAO is now

Shaw Brothers Shipping Co., General Agents
140 S. E. 3rd Avenue, Miami 32, Florida

Mailing Address — P.O. Box 306, Biscayne Annex
Miami 32, Florida.

This Circular supersedes and cancels TAPSC Circular No. 253, dated February 8, 1957.

AMERICAN EXPORT LINES, INC.
CANADIAN PACIFIC STEAMSHIPS
COMPANHIA COLONIAL DE NAVEGACAO
CUNARD STEAMSHIP COMPANY LIMITED, THE
DONALDSON LINE LIMITED
EUROPE-CANADA LINE
FRENCH LINE
FURNESS LINE
GDYNIA AMERICA LINE
GREEK LINE
GRIMALDI SIOSA LINES
HAMBURG-ATLANTIC LINE

HOLLAND-AMERICA LINE
HOME LINES
INCRES STEAMSHIP COMPANY LTD.
ITALIAN LINE
NATIONAL HELLENIC AMERICAN LINE
NORTH GERMAN LLOYD
NORWEGIAN AMERICA LINE
ORANJE LINE
SPANISH LINE
SWEDISH AMERICAN LINE
UNITED STATES LINES
ZIM LINES

ASSOCIATE MEMBERS

AMERICAN SCANTIC LINE
ANCHOR LINE LIMITED
BELGIAN LINE
CAHNS, NOBLE & CO. LIMITED
SWEDISH TRANSATLANTIC LINE

FRANVILLE MEDITERRANEAN LINES
HAMBURG-AMERICAN LINE
IONIAN LINES, INC.
MANCHESTER LINES LIMITED

Exhibit 111

TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE

80 BROAD STREET

Circular No. 274

New York 4, N. Y., February 17, 1961

TO SUB-AGENTS:

**CONTROL OF ALIENS DEPARTING FROM, OR ARRIVING IN,
THE UNITED STATES****REVISED U. S. GOVERNMENT REGULATIONS
RELATING TO
DEPARTURE AND/OR ARRIVAL OF RESIDENT ALIENS**

Under revised regulations issued by the Department of State, and the Immigration and Naturalization Service, Department of Justice, certain restrictions are now imposed on the travel of resident aliens traveling to and from countries specified below.

1. The departure of any alien lawfully admitted for permanent residence in the United States who intends to travel to, in, or through Albania, Communist-controlled China ("Chinese People's Republic"), North Korea ("Democratic People's Republic of Korea") or North Viet-Nam ("Democratic Republic of Viet-Nam") is deemed prejudicial to the interests of the United States and will be prohibited. In exceptional circumstances, departure for these areas may be authorized in individual cases by the Secretary of State after consultation with the Attorney General.
2. Any alien lawfully admitted for permanent residence in the United States who seeks to depart from the United States for travel to, in, or through Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Rumania, the Soviet Zone of Germany ("German Democratic Republic"), the Union of Soviet Socialist Republics, or Yugoslavia, shall be prohibited from re-entry to the United States *unless such alien shall possess a valid, unexpired re-entry permit issued by the Attorney General* which will also be required by the Immigration Department on his return arrival to the United States. Department of Justice Form I-151, alien registration receipt card shall be invalid for re-entry to the United States if the passenger during his absence has travelled to, in or through any of the above listed countries.

It is MOST IMPORTANT that all concerned be appropriately informed of the above revised regulations.

This circular modifies Trans-Atlantic Passenger Steamship Conference Circular to Sub-Agents No. 236, dated September 9, 1957.

AMERICAN EXPORT LINES, INC.
CANADIAN PACIFIC STEAMSHIPS
COMPANHIA COLONIAL DE NAVEGACAO
CUNARD STEAM-SHIP COMPANY LIMITED, THE
DONALDSON LINE LIMITED
EUROPE-CANADA LINE
FRENCH LINE
FURNESS LINE
GDYNIA AMERICA LINE
GREEK LINE
GRIMALDI SIOA LINES
HAMBURG-ATLANTIC LINE

HOLLAND-AMERICA LINE
HOME LINES
INCREAS STEAMSHIP COMPANY LTD.
ITALIAN LINE
NATIONAL HELLENIC AMERICAN LINE
NORTH GERMAN LLOYD
NORWEGIAN AMERICA LINE
ORANJE LINE
SPANISH LINE
SWEDISH AMERICAN LINE
UNITED STATES LINES
ZIM LINES

ASSOCIATE MEMBERS

AMERICAN SCANTIC LINE
ANCHOR LINE LIMITED
BELGIAN LINE
CAIRNS, NOBLE & CO., LIMITED
SWEDISH TRANSATLANTIC LINE

FERN-VILLE MEDITERRANEAN LINES
HAMBURG-AMERICAN LINE
ISTHMIAN LINES, INC.
MANCHESTER LINES LIMITED

(Exh. 113)

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Exhibit 113 **SUB-AGENCY APPOINTMENT AGREEMENT**

ORIGINAL

Expires April 15, 19 , unless renewed by Steamship Company

I (we) hereby apply for a sub-agency, of

(Name of Steamship Company)

to be located at

(Street and Number)

(City or Town)

(State)

and in the event of my (our) appointment, or reappointment and in consideration thereof, agree to adhere to and comply with all the instructions from and the rules which are hereto annexed governing the activities of sub-agencies of said Steamship Company, and which I (we) have read and hereby agree to, and the special or supplemental rules for or requirements of sub-agencies hereto issued by said Steamship Company, including any special instructions applying to any particular case or circumstances, and I (we) also agree to hold in trust for said Steamship Company any steamship passage tickets and orders, railroad tickets and orders, money orders, drafts, travelers checks or other documents and forms supplied to me (us) for sale, and to sell the same only at the rates quoted by said Steamship Company, and when any of such documents or forms are sold I (we) agree to keep and hold the proceeds of sale and also any deposits made on account of any sales and any other funds received or collected for the account of said Steamship Company, whether or not the same have been deposited in a bank, in trust and entirely separate and apart from any and all other funds and moneys in my (our) hands, and to remit such proceeds of sale to said Steamship Company immediately after each sale, and all deposits and other funds immediately after their receipt; and I (we) further agree to return to said Steamship Company upon demand all of its unsold tickets, orders and other documents and forms and also any certificate or other written authorization of agency appointment issued to me (us).

I (we) further agree that the relationship set up between me (us) and said Steamship Company is not that of debtor and creditor but of trustee and beneficiary, and that all funds derived from the sale of said Steamship Company's tickets, orders and other documents or forms, and also any deposits and any other funds received or collected for the account of said Steamship Company, are said Steamship Company's property and do not belong to me (us).

In consideration of the granting of this sub-agency, I (we) not only represent and warrant that I (we) shall at all times safeguard and protect the property and money of said Steamship Company in the manner aforesaid, but I (we) add my (our) personal indemnity to said Steamship Company for any loss which may be sustained by it for any of the causes hereinafter mentioned in this paragraph, apart from and in addition to any and all rights and remedies hereunder which said Steamship Company has by virtue of the creation of the aforesaid trust relationships and to that end I (we) further agree to accept responsibility and liability for each steamship passage ticket and order, railroad ticket and order, deposit receipt, money order, draft, travelers check or other document or form delivered to me (us) and for all funds and moneys received by me (us) as proceeds of sale of any of such documents or forms, or as deposits or for the account of said Steamship Company, and to indemnify and save the said Steamship Company harmless from loss for such documents and forms and for such proceeds of sale, deposits and funds, whether or not the same have been deposited in a bank and whether such loss is occasioned by forgery, burglary or theft or by the insolvency of either a purchaser of such documents or forms or of a bank in which I (we) may have deposited such proceeds of sale, deposits or funds (notwithstanding the fact that under the terms of this trust agreement such bank deposits are the property of said Steamship Company and not my (our) property), or by any other act or condition whatsoever.

I (we) further agree not to transfer or sell the sub-agency appointment of said Steamship Company or to change the name or the address of the sub-agency without the prior written consent of said Steamship Company and to report without delay any change that may affect my (our) sub-agency.

I (we) further agree that under any plan for the bonding of the sub-agency and/or for the payment of a fee by the sub-agency which said Steamship Company may arrange, this appointment shall not become nor remain effective unless and until any forms necessary or any acts required of me (us) in connection with such bonding and/or sub-agency fee arrangements have been executed or performed by me (us) and are acceptable to said Steamship Company.

No modification of the terms of this Trust Agreement shall be effective unless made in writing and signed by both parties.

I (we) further agree that if this application for appointment as a sub-agency is granted, said appointment may be withdrawn by said Steamship Company at any time after ten days from the date hereof and without previous notice. Without limitation of the foregoing, said appointment shall continue in effect until April 15 in the year 19 , and thereafter until the same date in each succeeding year, unless prior to such date in any year I (we) have not paid the annual sub-agency fee for such year required by the rules of the Trans-Atlantic Passenger Steamship Conference. Upon any such failure to pay such annual fee, this Agreement shall thereupon terminate automatically and without previous notice.

Any failure by said Steamship Company to avail itself of or act upon any default on my (our) part for any of my (our) acts or omissions in violation of the terms and conditions hereof, unless agreed to in writing by said Steamship Company, shall not be deemed a waiver by said Steamship Company, nor a general waiver of any such acts or omissions; and a waiver by said Steamship Company in respect of one or any number of acts or omissions by me (us) shall not be deemed to operate as a relinquishment of any rights against me (us) or a waiver in respect of any acts or omissions by me (us) subsequently occurring.

(Witness of Applicant's Signature)

(Name of Applicant)

(Full Address)

By

(Date)

(Date)

The above application for a sub-agency of the Steamship Company named below is hereby approved, subject to all of the terms and conditions referred to therein, including the rules thereto annexed.

(Name of Steamship Company)

(Date)

By

*Exhibit 113***TRANS-ATLANTIC PASSENGER STEAMSHIP CONFERENCE****Rules Governing the Activities of Sub-Agencies in North America**

Adopted by the Steamship Lines, members of the Trans-Atlantic Passenger Steamship Conference

These Rules cover the services of each of the member Lines and relate to all classes of bookings. They must be strictly complied with in the spirit as well as the letter, and a violation of any Rule or default in the performance of any provision thereof, with respect to any one of such Lines, may result in the cancellation of the agency by all of such Lines which it represents.

1. Definition of Agent

The term "agent," wherever mentioned in these Rules, means an individual, firm or corporation employed by the Line, either directly or through its General Agent, as a sub-agent for the sale of steamship passage tickets, and/or orders, and/or railroad tickets and/or orders, and/or money orders, drafts or travelers checks, and/or other documents or forms, and for no other purpose for the Line.

2. Definition of Line

The term "the Line," wherever mentioned in these Rules, means the particular Steamship Company, member of the Trans-Atlantic Passenger Steamship Conference, represented by the agent under a prescribed written form of authorization to act as such agent for said Steamship Company.

3. Responsibility of Agent

The agent is responsible to the Line for all business transacted in its behalf whether conducted by him or by any other person in his name.

4. Agency Address

The agent must transact the business of the agency only at the address and in the office at which it has been duly authorized. The agent must not offer or place or allow others to offer or place the Line's passage tickets and orders, railroad tickets and orders, money orders, drafts, travelers checks, or other documents or forms so held in trust, for sale at any address outside of his own authorized office; nor shall he sell such tickets, orders or other documents to, or offer to sell through or have any business dealings with, disqualified agents, peddlers, porters, runners or other unauthorized persons endeavoring to engage in or become associated with the steamship ticket business. The agent must not employ for the sale of such tickets, orders, or other documents or forms, or for the solicitation of the Line's business, in any particular, any person not regularly employed on his staff.

The agent must not employ a disqualified agent who has at any time been in default to any of the member Lines, or any person previously connected with such a disqualified agent until and unless authority for such employment has been secured from the Line.

5. Lines Represented

The agent is prohibited from booking passengers for any steamer not connected with the fleets of any of the member Lines which is operated in a trans-Atlantic service competitive with such Lines, or from representing in any capacity any steamship company operating a steamer in such a competitive service, unless written permission to do so is first obtained from such Lines through the Secretary of the Trans-Atlantic Passenger Steamship Conference. He is also prohibited from selling passage tickets, orders or similar documents so held in trust, under false representations as to the Line, vessel, or route by which a passenger is to be transported.

The agent is prohibited from acting or advertising himself as agent for, or as entitled to do business for any of the member Lines he does not represent by direct appointment; nor may he sell to another agent for any of the member Lines tickets, orders or similar documents, held in trust by him, of a Line which such other agent does not represent.

6. Tickets, Proceeds, etc., Held in Trust

The agent must hold in trust for the Line all tickets, orders, deposit receipts, money orders, drafts, travelers checks, and other documents or forms delivered to him by such Line, together with the proceeds of sale thereof, deposits, and any other funds received or collected for the account of said Line, and such proceeds, deposits and funds shall be kept separate and apart from all other funds and moneys in his hands.

7. Issue of the Line's Tickets, etc., Only

A ticket-holding agent must not hold nor accept for sale any ticket, deposit receipt, order or other documents or forms not supplied to him by the Line. He shall not issue orders, passage contracts or tickets of his own or those of any other individual, firm or corporation, other than the Line, nor shall he issue orders, passage contracts or tickets on private correspondents, firms or corporations, wherever located, for outward, round-trip or prepaid ocean transportation.

A ticket-holding agent not supplied by the Line with its deposit receipts may use his own form of deposit receipt and a non-ticket-holding agent may also use his own form of deposit receipt; in both instances, such deposit receipts must be consecutively numbered and must show the name of the Line, steamer and date of sailing for which issued and must be written in triplicate, one copy of which must be sent to the Line with the remittance.

8. Adherence to Authorized Rates

The agent must sell tickets, orders, money orders, drafts, travelers checks, documents or forms so held in trust only at the authorized rates then obtaining, in accordance with circular announcements issued from time to time by the Line, and must not at any time quote any rates not so authorized.

9. Securing of Accommodation

A passage ticket, order or similar document so held in trust must not be issued for specific accommodations, without first securing the reservation thereof from the Line.

10. Passage Money, etc., to be Shown on Tickets, etc.

The amount received for passage money, the date of issuance, the place of sale, and the correct and full name and address of the agency, must always be noted on the passage ticket, order or similar document.

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*Exhibit 113***11. Remittances**

Advices of all sales of any of the Line's documents or forms so held in trust and/or of all reservations of accommodations, accompanied by remittances of the proceeds of sale, or deposits or part payments collected on reservations for Eastbound and/or Westbound passages, regardless of date of sailing, and so held in trust, must be forwarded on the day of sale (deposits on the day of receipt) to the office of the Line to which reports and remittances are required to be sent. For the purpose of verifying adherence to this requirement, the books, records and other documents of the agent will be subject to examination periodically by an auditor nominated by the Line or by the Trans-Atlantic Passenger Steamship Conference.

Any violation of this requirement with respect to any one of the member Lines will result in the cancellation of the agency by all of such Lines which it represents.

12. Booking Points

The agent must sell passage tickets, orders, or similar documents so held in trust only to or from such booking points as are designated in the published tariff of the Line, at the quoted rates, but not between any other points. Third class prepaid passengers must be booked through to final destination only on such forms as may be authorized by the Line.

13. Payment of Commission

The basis of commission is in accordance with circular announcements issued from time to time by the Line. Only an individual, firm or corporation employed by the Line as its agent, and so duly authorized by it in writing, is entitled to the authorized commission.

Commission is paid only upon the actual issuance of the ticket, order or similar document so held in trust and the direct receipt by the agent of the full proceeds of sale thereof. Commission is not paid on letters or cards of introduction.

(NOTE: Commission may be paid to an agent who has collected the initial payment (deposit) for a passage ticket although the ticket is subsequently issued at the Line's office.

Commission may not be deducted from a deposit (initial payment) but is paid to the agent upon completion of the sale whether the balance of the passage money is collected by the agent or by the Line's office and the passage ticket issued there.

Commission is not payable to an agent if a Line has collected the initial payment (deposit) for passage and the ticket is subsequently issued by the agent and the balance of the passage money paid to him.)

14. Commissions Not to be Divided

The agent alone is entitled to the full amount of commission allowed by the Line upon each sale. He must not promise or hold out any improper inducements, expressed or implied, of paying any portion of the commission allowed to purchasers or prospective purchasers of tickets, orders or similar documents, or to passengers or to any other persons, by letter, circular, newspaper advertisement or otherwise.

All rebates, drawbacks, discounts, credits, commissions, presents, prizes, or allowances of any description whatsoever made or offered to be made to a purchaser, prospective purchaser, passenger, or to any other person, with a view to influencing the sale of a ticket, order or similar document are strictly prohibited.

15. Telegraph or Telephone Charges

The agent must prepay all telegraph or telephone charges when communicating with the Line and the Line will prepay the reply.

16. Agent in Default

The agent who is at any time in default to any of the member Lines will be immediately disqualified and his agency will be promptly cancelled by all of the member Lines. When a firm is disqualified, each member thereof, and when a corporation is disqualified, each officer thereof, is also so disqualified.

The agent, immediately upon disqualification, is prohibited from selling tickets, orders or other documents or forms, or from transacting any other business of the agency, at his office or residence or at any other place or address, and must surrender immediately all tickets, orders and other documents or forms held in trust by him.

When the agent is disqualified, the sale of passage tickets, orders or other documents or forms of or for any of the member Lines is thereby prohibited.

17. Advertising**(a) Announcements**

The term "advertising" means announcements, etc., by posters, booklets, circulars, printed matter, hand-bills, newspaper, magazine or periodical advertising, paid reading notices, radio, etc., or other paid public form of announcement in regard to the steamship business.

(b) Unfavorable Comparisons

No statements shall be made which reflect upon or institute unfavorable comparisons as between any of the member Lines or their steamers.

(c) Statements of Fact

Advertising expressions shall be limited to statements of fact, and must avoid any appearance of being misleading.

(d) Use of Superlatives, etc.

All advertisements shall conform to truth and good taste, and superlatives that are debatable must not be used in advertising matter.

(e) Steamer Blocks and Cuts

No steamer blocks or cuts may be utilized unless the steamer depicted is employed or to be employed in an advertised service of the Line. For general advertisements, circulars, pamphlets, etc., advertising the fleet or services generally of the Line, the steamer block or cut of any vessel employed or to be employed by the Line may be utilized, but for special announcements or advertisements for a particular steamer or voyage, no steamer block or cut may be utilized, except that depicting the vessel or vessels advertised.

The agent is not permitted to use the steamer block or cut of a vessel of any Line which he does not represent.

*Exhibit 113***(f) Tonnage**

All references to tonnage must refer to "gross registered tonnage." It is not permissible to advertise displacement tonnage unless the gross registered tonnage is simultaneously shown in the same characters. In newspaper advertisements, the agent must confine references to tonnage to the gross registered tonnage, and no particulars will be included in such advertisements of the steamers' displacement tonnages.

(g) Class of Accommodation

The several classes of passenger accommodation shall be designated by the following expressions only:

First Class
One Class
Cabin
Tourist

Equivalent expressions in the different languages may be utilized.

(h) Rates

All advertised or otherwise offered rates of trans-Atlantic traffic shall:

- (1) Include the name of the Line,
- (2) State the destination, if other than a port, and
- (3) Indicate the class of ocean accommodation.

(i) Revision of Rates

A revision of rates must not be advertised or be given publicity unless on written authority of the Line.

(k) Printed Matter

All printed matter pertaining to sailings and rates shall show the date and place of issue.

(m) Bill-boards and Signs

Bill posting, painted, electric and other signs must be restricted at all places to the immediate premises of the agent.

(n) Designation of Agency

The agent may represent himself only as an "Agent" or "Sub-Agent," but not as a "General Agent," "General Passenger Agent," "General Steamship Agent," "Special Agent," or similar designation, on letter-heads, office signs or otherwise.

(o) Agent's Responsibility

Any agent publishing an advertisement which is in violation of these Rules will be held liable therefor by the Line.

18. Erroneous or Misleading Statements

The agent is prohibited from issuing any erroneous or misleading statement to the effect that any of the member Lines or any of their agents is following practices that are contrary to these Rules or has offered to enter into such practices with said agent or otherwise.

19. Books Open for Inspection

The agent must keep appropriate accounts of all transactions relating to the agency, currently to date. His office premises may be visited at any time and all the books, records and documents in relation to the agency representation shall be open to inspection by the Line or by a duly authorized representative of the Trans-Atlantic Passenger Steamship Conference.

20. Adequate Amount of Business to be Transacted

The agent must endeavor to create and stimulate the sale of passenger transportation and must transact a sufficient amount of business to justify the costs and responsibilities incurred by the Line and by such other of the member Lines he represents in retaining the agency; the failure or inability to produce an amount of business sufficient, in the opinion of such Lines, to justify the continuance of the agency may result in its termination by all of such Lines.

21. Maintenance of Ethical Business Standards

The agent must at all times maintain ethical standards of business in the conduct of his agency and in his dealings with passengers, purchasers of tickets, orders or other documents or forms so held in trust and with each of the member Lines he represents.

22. Report of Violation of Rules

The agent is not justified in violating any of these Rules on the ground that some other agent is, or may be, doing so. It is the duty of the agent to report to any of the member Lines he represents or to the Trans-Atlantic Passenger Steamship Conference any violations thereof that may come to his knowledge, together with all facts and substantiating evidence.

23. Violation of Rules

When in the judgment of the member Lines, the agent has violated or has failed to comply with or adhere to any of these Rules or any additional or supplemental Rules, with respect to any of such Lines, the agency may be withdrawn and cancelled by all such Lines or damages may be imposed against such agency. The amount imposed, in the form of liquidated damages, shall not be more than \$1,000. for each infringement; if the agent fails to pay the amount of such damages within the time specified in a written notice mailed to him by the Secretary of the Trans-Atlantic Passenger Steamship Conference, he shall be immediately disqualified from acting in any capacity for any of the member Lines.

24. Termination of Agency

Either the Line or the agent may terminate the agency at any time.

25. Adherence to Rules

The agent agrees to adhere to and comply with these and such additional and/or supplemental Rules as may be announced from time to time by the Line, which in any way relate to or govern the activities or the business of the agency.

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(Exh. 117)

Exhibit 117

F.M.B. Docket No. 873

R Exhibit 117

Sheet 1 of 1

**ASSESSMENT OF LIQUIDATED DAMAGES AGAINST
SUB-AGENTS IN UNITED STATES AND CANADA**

<u>Year</u>	<u>Approximate No. of Sub-Agents</u>	<u>No. of Sub-Agents Assessed</u>	<u>Total Amount Assessed</u>
1950	2804	0	-
1951	2934	0	-
1952	2926	1	\$ 100.00
1953	3011	3	400.00
1954	3084	4	450.00
1955	3187	5	500.00
1956	3263	6	1,050.00
1957	3352	4	500.00
1958	3525	1	100.00
1959	3635	3	300.00
1960	3972	<u>1</u>	<u>100.00</u>
	Totals	28	\$3,500.00

Exhibit 119

1879 - North Atlantic Steam Traffic Conference - Digest of Rules and Regulations

Clause 19 - All questions that may come before the Conference for action, must be decided by the unanimous vote of all the members present, to be of any effect.

21 - Each member of Conference undertakes on his honor to consider and maintain all questions and actions pertaining to the deliberations of Conference as sacred and confidential in the highest degree.

1885 - The Continental Lines Memorandum of Agreement

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Clause 8. All questions that may come before the meeting must be agreed to unanimously, by all the parties hereto, to be of any effect.

10. Each party hereto undertakes on his honor to consider and maintain all questions and actions that may be considered or adopted in connection herewith, as sacred and confidential in the highest degree.

1894 - The Mediterranean Conference Memorandum of Agreement

Clause 4. All questions that may come before the meeting must be agreed to unanimously, by all the members, to be of any effect.

6. Each member undertakes, on his honor, to consider and maintain all questions and actions that may be considered or adopted in connection herewith, as sacred and confidential in the highest degree.

1921 - Atlantic Conference Record of Agreements and Resolutions

Page 51 - Agreement F.1, Article 13 (a). Agreement S.1, Article 14(a). Agreement T.1, Article 28(a): Other Lines can be admitted to this present contract the the terms and conditions thereof can be altered and new terms can be added thereto, but only by the unanimous vote of the Lines.

1921 - Atlantic Conference Agreement T.1.

Article 28 - Alterations and additions to Agreement

(a) Other Lines can be admitted to this present Contract, and the terms and conditions thereof can be altered and new terms and conditions can be added thereto, but only by the unanimous vote of the Lines.

(b) All alterations and additions, made in respect to this present Contract, to be valid and binding upon the Lines, parties to this present Contract, only, when all the Lines have given their written consent to such alterations and conditions.

1921 - Atlantic Conference Agreement A.1.

Article 22 - Clause (j) - The Parties bind themselves not to permit any communications concerning the proceedings or resolutions of the Lines to be given to the press or uninterested third persons without the unanimous consent of the Lines. The deliberations of Conference and all Conference circulars are to be regarded as private and confidential and are not to be communicated to outside Parties including Agents.

1921 - Atlantic Conference Agreement A.1.

By-Laws (2) Resolutions not included in Agreement or Bye-Laws

(a) All unanimously agreed resolutions and all decisions unanimously arrived at by correspondence, shall be binding upon the Lines, and all Lines shall be bound by any resolutions and decisions still effective even though they may not have been incorporated in the printed Agreements and Bye-Laws

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Exhibit 119

To Date Continental-North Atlantic Passenger Conference

7. Deliberations Confidential

All resolutions, deliberations, considerations, discussions, informal or other talks between Members in Conference or otherwise which do not result in agreed action shall be considered as confidential in the highest degree, and shall not be divulged to Agents or other persons. The proceedings, resolutions, or discussions of Conference, whether resulting in agreed action or not, shall not be divulged to the Press, Agents or other persons, unless by unanimous consent of the Lines.

1928 Trans-Atlantic Passenger Conference

Article 7

Clause (b) By-Laws of this Conference shall be adopted, altered, amended or rescinded only by unanimous vote of all the Member Lines, and nothing in said By-Laws adopted shall be inconsistent with the provisions and purposes of this Agreement.

Clause (e) All resolutions, deliberations, considerations, discussions, informal or other talks between Members, in Conference or otherwise, which do not result in agreed action, shall be considered as confidential in the highest degree and shall not be divulged to agents or other persons.

4630 Atlantic Conference Memorandum of Agreement

Filed 1917

Approved Nov. 1925 - The Continental Conference - General Rules

Clause 4 - All questions that may come before the meeting must be agreed to unanimously by all the members to be of any effect.

Clause 5 - The members of this Conference agree, one with the other, to faithfully abide by and fulfill every obligation imposed by its meetings and embodied in the Minutes thereof, and to consider and maintain all questions and actions that may be considered or adopted in connection herewith, as sacred and confidential in the highest degree; and this undertaking is considered as made on their honor.

1930 Atlantic Conference Memorandum of Agreement

Article C - Organization, Purpose and Operation

Clause (f) Membership. Other Lines can be admitted to this General Agreement, in conformity with the rules and regulations known as "Agreement A", "Agreement A.1", "Agreement T.1" or "Agreement S.T.1", and the terms and conditions thereof can be altered and new terms and conditions can be added thereto, but only by the unanimous vote of the Lines, provided, however, that admission in no instance shall be denied except for just and reasonable cause.

Agreement A.1. - Article 22

Clause (j) The Parties bind themselves not to permit any communications concerning the proceedings or resolutions of the Lines to be given to the press or uninterested third persons without the unanimous consent of the Lines. The deliberations of Conference and all Conference circulars are to be regarded as private and confidential and are not to be communicated to outside parties including Agents.

Exhibit 126

TRANS-ATLANTIC PASSENGER CONFERENCE
80 BROAD STREET

Circular No. 225

New York 4, N. Y., July 24, 1950

TO SUB-AGENTS:

INCRES COMPANIA DE NAVIGACION S.A., PANAMA

Admission to Membership in the Trans-Atlantic Passenger Conference

You are advised that INCRES COMPANIA DE NAVIGACION S.A., Panama (Arnold Bernstein Shipping Company, Inc., General Passenger Agents for North America, 17 Battery Place, New York 4, N. Y.) became a member of the Trans-Atlantic Passenger Conference as of July 14, 1950. You are, therefore, authorized to accept appointment as sub-agent for that Line and to book passengers for its services.

ANCHOR LINE

Charles Hill & Sons, Inc., General Agents, 1 Broadway, New York 4, N. Y.

IRISH SHIPPING, LTD.

States Marine Corporation, General Agents, U.S.A. and Canada, 90 Broad Street, New York 4, N. Y.

MANCHESTER LINERS LIMITED

Furness, Withy & Co., Ltd., General Agents, 315 St. Sacrament St., Montreal, Canada

You are advised that each of the above Lines, operating only freight ships whose normal passenger capacity is not more than twelve, is now connected with Conference on an associate basis. You are, therefore, authorized to accept appointment as sub-agent for any of such Lines and to book passengers for their respective services.

SUB-AGENCIES PROHIBITED FROM BOOKING PASSENGERS
FOR NON-MEMBER LINES

Under Rule 5 governing their activities, sub-agencies are prohibited from booking passengers for a ship (not connected with the fleets of the Conference Lines) which is operated in any competitive trans-Atlantic trade, or from representing in any capacity any steamship company operating such a ship, unless written permission to do so is first obtained by application to the Conference.

You are advised that, in accordance with that Rule, you may book passengers *only* for ships of the member Lines whose names are listed below and of Associate Member freight Lines listed above — and then *only* for such of these Lines as have appointed you as their sub-agency.

AMERICAN EXPORT LINES, INC.
AMERICAN SCANTIC LINE
CANADIAN PACIFIC STEAMSHIPS
CUNARD STEAMSHIP COMPANY LIMITED, THE
DONALDSON ATLANTIC LINE
EAST ASIATIC COMPANY, LTD., THE
FRENCH LINE
FURNESS LINE
GDYNIA AMERICA LINE
GREEK LINE

HOLLAND-AMERICA LINE
HOME LINES
INCRES COMPANIA DE NAVIGACION S.A.
ITALIAN LINE
KHEDIVIAL MAIL LINE
NORWEGIAN AMERICA LINE
SPANISH LINE
SWEDISH AMERICAN LINE
UNITED STATES LINES

(Exh. 126)

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Exhibit 126

TRANS-ATLANTIC PASSENGER CONFERENCE
80 BROAD STREET

New York 4, N. Y., May 18, 1931

Circular No. 230

To SUB-AGENTS:

SUB-AGENCIES PROHIBITED FROM BOOKING PASSENGERS
FOR NON-MEMBER LINES

Our Circular No. 225 "To Sub-Agents" dated July 24, 1930, directed your attention to the above matter, as follows:

"Under Rule 5 governing their activities, sub-agencies are prohibited from booking passengers for a ship (not connected with the fleets of the Conference Lines) which is operated in any competitive trans-Atlantic trade, or from representing in any capacity any steamship company operating such a ship, unless written permission to do so is first obtained by application to the Conference.

"You are advised that, in accordance with that Rule, you may book passengers only for ships of the member Lines whose names are listed below and of Associate Member freight Lines xxxxx * — and then only for such of these Lines as have appointed you as their sub-agency."

(* Listed at the foot of reverse side of this circular)

So that there will be no misunderstanding regarding the views of the under-noted Lines, members of the Conference, you are advised that the Rule referred to above, which is a condition of your sub-agency appointment agreement(s), will be strictly enforced.

AMERICAN EXPORT LINES, INC.
CANADIAN PACIFIC STEAMSHIPS
CUNARD STEAMSHIP COMPANY LIMITED, THE
DONALDSON ATLANTIC LINE
EAST ASIATIC COMPANY, LTD., THE
FRENCH LINE
FURNESS LINE
GREEK LINE

HOLLAND-AMERICA LINE
HOME LINES
INCREC COMPANIA DE NAVEGACION, S.A.
ITALIAN LINE
KHEDIVIAL MAIL LINE
NORWEGIAN AMERICA LINE
SPANISH LINE
SWEDISH AMERICAN LINE
UNITED STATES LINES

Exhibit 126

List of Passenger Ships Operated by Member Lines
of Trans-Atlantic Passenger Conference

AMERICAN EXPORT LINES, INC.

Constitution
Excalibur
Excambion
Exeter
Exochorda
Independence
LaGuardia

CANADIAN PACIFIC STEAMSHIPS

Beaverbrae
Empress of Canada
Empress of France
Empress of Scotland

CUNARD STEAMSHIP COMPANY LTD., THE

Ascania
Britannic
Caronia
Franconia
Georgic
Mauretania
Media
Parthia
Queen Elizabeth
Queen Mary
Samaria
Scythia

DONALDSON ATLANTIC LINE

Laurentia
Lismoria

EAST ASIATIC COMPANY, LTD., THE

Erria
Falstria

FRENCH LINE

De Grasse
Ile De France
Liberte

FURNESS LINE

Newfoundland
Nova Scotia

GREEK LINE

Canberra
Columbia
Nea Hellas
Neptunia

KHEDIVIAL MAIL LINE

Khedive Ismail
Mohamed Ali El Kebir

HOLLAND-AMERICA LINE

Edam
Leerдам
Nieuw Amsterdam
Noordam
Ryndam
Veenđam
Volendam
Westerdam

HOME LINES

Argentina
Atlantic
Homeland
Italia

INCRES LINE

Europa

ITALIAN LINE

Conte Biancamano
Saturnia
Vulcania

NORWEGIAN AMERICA LINE

Oslofjord
Stavangerfjord

SPANISH LINE

Habana
Magallanes
Marques de Comillas

SWEDISH AMERICAN LINE

Gripsholm
Stockholm

UNITED STATES LINES

America
Washington

Also Freight Ships, whose normal passenger capacity is not more than twelve, operated by the above named member Lines and by AMERICAN SCANTIC LINE, ANCHOR LINE, IRISH SHIPPING, LTD., and MANCHESTER LINERS LIMITED (Associate Members).

393a

*Exhibit 126***TRANS-ATLANTIC PASSENGER CONFERENCE**
80 BROAD STREET

Circular No. 240

New York 4, N. Y., August 17, 1933.

TO SUB-AGENTS:

SUB-AGENCIES PROHIBITED FROM BOOKING PASSENGERS
FOR
STEAMSHIP LINES NOT MEMBERS OF THE CONFERENCE

It has come to our notice that certain steamship companies, not members of the Trans-Atlantic Passenger Conference, operating passenger-carrying ships in competitive trans-Atlantic trade, have been actively soliciting sub-agencies of member Lines to book passengers for such ships.

As previously brought to your attention in our Circular No. 230, you are prohibited, under your Sub-Agency Appointment Agreement (Rule 5 of the Rules governing the activities of sub-agencies), from booking passengers for a ship which is not connected with the fleets of any of the Conference Lines and is operated in a trans-Atlantic service competitive with such Lines.

Any steamship company operating a regular service and carrying passengers *between* ports on the East Coast of North America (United States and Canada) also United States Gulf ports and European and Mediterranean ports may apply for admission to Conference membership if it desires to have sub-agencies of the member Lines book passengers for its ships.

Listed below are the names of our member Lines (the ships operated by them appear on the reverse side of this Circular) as well as of all Associate Member Freight Lines. Commission on passage tickets sold for any of these Lines is payable only if the sub-agency is duly authorized in writing to represent the particular Line involved.

AMERICAN EXPORT LINES, INC.
AROSA LINE
CANADIAN PACIFIC STEAMSHIPS
CUNARD STEAM-SHIP COMPANY LIMITED, THE
DONALDSON ATLANTIC LINE
EAST ASIATIC COMPANY, LTD., THE
FRENCH LINE
FURNESS LINE
GREEK LINE
HOLLAND-AMERICA LINE

HOME LINES
INCRES COMPANIA DE NAVEGACION, S. A.
ITALIAN LINE
KHEDIVIAL MAIL LINE
LAURO LINES
NORWEGIAN AMERICA LINE
SPANISH LINE
SWEDISH AMERICAN LINE
UNITED STATES LINES
ZIM LINES

ASSOCIATE MEMBERS

AMERICAN SCANTIC LINE
ANCHOR LINE LIMITED
BELGIAN LINE
ELLERMAN'S WILSON LINE, LIMITED

IRISH SHIPPING LTD.
MANCHESTER LINERS LIMITED
ROPNER LINE

Exhibit 126

List of Passenger Ships Operated by Member Lines
of Trans-Atlantic Passenger Conference

AMERICAN EXPORT LINES, INC.

Constitution
Excalibur
Excambion
Exeter
Exochorda
Independence

AROSA LINE

Arosa Kulm

CANADIAN PACIFIC STEAMSHIPS

Beaverbrook
Empress of Australia
Empress of France
Empress of Scotland

CUNARD STEAM-SHIP COMPANY LTD., THE

Ascania
Britannic
Caronia
Franconia
Georgic
Mauretania
Media
Parthia
Queen Elizabeth
Queen Mary
Sarnia
Scythia

DONALDSON ATLANTIC LINE

Laurentia
Lismoria

EAST ASIATIC COMPANY, LTD., THE

Palatia

FRENCH LINE

Flandre
Ile de France
Liberte

FURNESS LINE

Newfoundland
Nova Scotia

GREEK LINE

Canberra
Columbia
Nea Hellas
Neptunia
Olympia

HOLLAND-AMERICA LINE

Nieuw Amsterdam
Noordam
Maasdam
Ryndam
Veendam
Westerdam

HOME LINES

Atlantic
Homeland
Italia

INCRES LINE

Nassau

ITALIAN LINE

Andrea Doria
Conte Biancamano
Saturnia
Vulcania

KHEDIVIAL MAIL LINE

Khedive Ismail
Mohamed Ali El Kibir

LAURO LINES

Roma
Sydney

NORWEGIAN AMERICA LINE

Oslofjord
Stavangerfjord

SPANISH LINE

Covadonga
Guadalupe
Habana
Magallanes
Marques de Comillas

SWEDISH AMERICAN LINE

Gripsholm
Kungsholm
Stockholm

UNITED STATES LINES

America
United States

ZIM LINES

Jerusalem

Also Freight Ships, whose normal passenger capacity is not more than twelve, operated by the above named member Lines and by AMERICAN SCANTIC LINE, ANCHOR LINE LIMITED, BELGIAN LINE, ELLERMAN'S WILSON LINE, LIMITED, IRISH SHIPPING LTD., MANCHESTER LINERS LIMITED, AND ROPNER LINE.

Exhibit 126

December 11th, 1959

Cisco Agencies Ltd.,
1146 Cedar Avenue,
Trail, B. C., Canada.

Dear Sir:

RE: Yugoslav Line
Crossocean Shipping Co.
Lykes Bros. Steamship Co. Inc.

In answer to your letter of December 6th, 1958, you are advised that the above steamship Lines are not members of Trans-Atlantic Passenger Conference and in accordance with Rule 5 of the Sub-Agency Appointment Agreements, sub-agencies are prohibited from booking passengers for non-member Lines in competitive trans-atlantic service.

Any freight Line operating ships with accommodations for not more than 12 passengers may apply for admission as an associate member of Conference. Once so associated with Conference, the sub-agency will be permitted to book passengers for such a freight Line ship. Under the circumstances, it is regretted that no exception can be made to Rule 5 with respect to the booking of passengers on ships of the Lines involved that are operated in trans-atlantic service.

The address of the Eastern Hemisphere Steamship Conference is 11 Broadway, New York 4, New York.

Yours very truly,

JOSEPH MAYPER
Chairman and Secretary

(Exh. 126)

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Exhibit 126

February 1, 1960

Thos. Cook & Son. Ltd.
Dominion Square Bldg.
1241 Peel St.
Montreal, Quebec, Canada

Dear Sirs:

It has come to our attention that on December 30, 1959, you wrote Mrs. Alice McCormick, 4522 Girouard Avenue, N. D. G., Montreal, Quebec, offering a passenger reservation aboard the Isbrandtsen Company's "SS FLYING FISH" sailing from New York round the world to Baltimore on or about April 15.

As you undoubtedly know, the Isbrandtsen Line is not an associate member of this Conference, therefore, it would appear that the booking of passengers for such Line is in violation of Rule 5 of the Rules Governing the Activities of Sub-Agencies in North America, in your Sub-Agency Appointment Agreements which prohibits authorized sub-agencies from booking passengers for non-member Lines in competitive trans-Atlantic service.

Prompt receipt of your comments regarding the above transaction will be appreciated.

Yours very truly,

D. I. KNOWLES
Secretary

Exhibit 126

February 1, 1960

Tobin's Travel Bureau Limited,
1240 Peel St.
Montreal, Quebec, Canada

Dear Sirs:

It has come to our attention that on December 16, 1959 you wrote (file Lf 5) Mrs. J. Smith, 4522 Girouard, Apt. 3, Montreal, Quebec, offering a passenger reservation aboard The Canada Levant Line's "STAR OF ASSUAN" which sailed from Quebec City on or about the 29th of December, 1959 and arrived in Lisbon on or about January 10th.

As you undoubtedly know, The Canada Levant Line is not an associate member of this Conference, therefore, it would appear that the booking of passengers for such Line is in violation of Rule 5 of the Rules Governing the Activities of Sub-Agencies in North America, in your Sub-Agency Appointment Agreements which prohibits authorized sub-agencies from booking passengers for non-member Lines in competitive trans-Atlantic service.

Prompt receipt of your comments regarding the above transaction will be appreciated.

Yours very truly,

D. I. KNOWLES
Secretary

oAK

Exhibit 135



American Society of Travel Agents, Inc.

501 FIFTH AVENUE • NEW YORK 17, N. Y. • MUrray NR 7-1133

May 23, 1956

To Active, Active Associate,
MRA and MRA Associate Members of ASTA:

You have undoubtedly by now received from the Trans-Atlantic Passenger Conference their Circular #249 dated at New York, May 18th, advising of the adjustment in commission payments effective for eastbound sailings on and after April 1, 1957, and for westbound sailings on and after June 1, 1957. The rate of commission is increased from 6% to 7%.

The 7% commission will also be applicable to all sailings after the end of the 1957 summer season. As advance information, the circular indicates that the summer season for 1957 has been established as follows:

Eastbound - April 1 to August 31 both inclusive
Westbound - June 1 to October 31 both inclusive

From Canadian ports (except Quebec and Montreal) the east-bound commencing date will be April 8, 1957.

For open prepaids and open tickets issued on or after April 1, 1957 the commission payable will also be 7%.

While the off-season commission rate has been dropped one-half percent, the in-season rate has been increased one percent. In effect, based upon past estimated performances, this means approximately one million dollars additional commissions will be available on sales made through travel agents.

Although the circular contained no mention of ASTA's part in bringing about this adjustment, we feel that our members should have this information. Last year President Donovan and Mr. McGrath met with the principals of the Trans-Atlantic Conference in Europe and strongly pointed out the need for a commission adjustment due to the increase costs that travel agents must meet in doing business today. They came away from this meeting encouraged that affirmative action would be taken.

However, not having had any further advice, the attached cable was sent to the Trans-Atlantic Conference under date of May 1st.

(cont.....)

OFFICERS AND DIRECTORS

- V. J. DONOVAN, President
Curtis Travel Bureau, Inc.
Chicago, Illinois
- A. EDGAR PORTER, Vice President
Curtis Travel Bureau
Worcester, Rhode Island
- A. L. SIMMONS, Secretary
Simmons Travel
New York, New York
- PETER J. RESCINO, Treasurer
Peter J. Rescino Travel Service
Paterson, New Jersey

W. F. MCGRATH
Executive Vice President

L. E. THOMAS
Immediate Past President & Director
Gay Travel, Ltd.
Montreal, Quebec, Canada

PAST PRESIDENTS

- F. IRVIN DAVIS - 1931-1936 (Deceased)
- CHARLES A. MARTIN - 1936-1940
- L. B. KIMMERS - 1940-1944
- H. M. PAULSEN - 1944-1948
- HOWELL EDWARDS - 1948-1950
- A. L. SIMMONS - 1951-1952

ASTA DIRECTORS

1. CHARLES F. HEATHFIELD
Heathfield Travel Service
Worcester, Mass.
2. BERT HENNINGSEN
Henning Travel Service
Los Angeles, Calif.
3. THOMAS EDWARDS
Edwards Travel Service, Inc.
New York, N. Y.
4. GEORGE CHARTER
Curtis Travel Service
Stamford, Conn.
5. JOHN D. VAN SLYKE
Over Stepping and Travel Agency, Inc.
Washington, D. C.
6. IRVIN H. JOHNSON
The Travel Agent
Atlanta, Ga.
7. WILLIAM H. SCHLES
The Shore Travel Co.
Cleveland, Ohio
8. WALTER A. JOHNSON
Curtis Travel Service
Chicago, Ill.
9. HAROLD MORTON
Travel Service, Inc.
Baltimore, Md.
10. ROBERT P. DONOVAN
Curtis Travel Service
Paterson, N. J.
11. ALEX LOREN
Loren & Sons, Ltd. Travel Service
St. Hamilton, Ont., Canada

311
DK

1198

662

399a

Exhibit 135

To: Active, Active Associate, ITRA
and ITRA Associate Members of ASTA:

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May 23, 1956

ASTA's contention is that the travel agents' cost of doing business has steadily risen for the past several years, but his income from the sale of steamship tickets has remained comparatively static. Contributing to this has been more or less stabilized rates, coupled with a very limited increase in steamship passenger carrying facilities. Because of these limitations the opportunity for increased revenue to meet rising costs is not obtainable by travel agents unless they are given an increase in commission. ✓

Although we mentioned above last year's meeting with the principals in Europe, in actual fact year after year, with precision-like regularity on the part of the travel agency fraternity, ASTA has appealed to the Trans-Atlantic Conference on this side as well as to the principals of the Trans-Atlantic Conference abroad, for consideration in the matter of increasing their commission. It has been asserted repeatedly that such consideration was necessary to permit the sub-agents to adequately staff their offices as a means of relieving the unreasonably long hours agents must now work due to their financial inability to fully staff their offices. More serious than this, both to principal and agent, is that their sales outlets will be diminished if travel agents are forced to close their doors because of operating deficits.

We appreciate this step in the right direction taken by the Trans-Atlantic Conference, but feel that it falls considerably short of what we consider a most rational request for corrective measures to safeguard the promotional as well as the productive ability of their agency structure. In the light of this, we have today, after several telephone conferences with T. J. Donovan, President; A. L. Simmons, Secretary; Max Allen, Chairman of the Active Steamship Advisory Committee; W. F. McGrath, Executive Vice President and R. H. Hering, Director of Trade Relations, despatched the following cable to the Trans-Atlantic Conference and are sending copies to the offices of the principals both here and abroad:

MR. W. H. ROPER, SECRETARY
ATLANTICO
FOULSTONE, KENT, ENGLAND

REUR CIRCULAR 249 TO SUBAGENTS. ASTA WHOSE MEMBERS REPRESENT 90% OF THE TRAVEL AGENCY SALES APPRECIATES THE CONSIDERATION AND ADJUSTMENTS CONTAINED BUT WE DO NOT BELIEVE THE ADJUSTMENT MADE IS SUFFICIENTLY REALISTIC TO MEET THE PRESENT DAY COST OF DOING BUSINESS ON THE NORTH AMERICAN CONTINENT. THEREFORE WE STRONGLY URGE THAT RECONSIDERATION BE GIVEN TO A HIGHER COMMISSION CORRESPONDING WITH THE HIGH COST OF CREATING AND DEVELOPING THIS TYPE OF BUSINESS. FURTHERMORE WE STRONGLY BELIEVE THAT A 10% COMMISSION SHOULD BE PAID TO SUBAGENCIES FOR SALE OF ALL CRUISES ALL EUROPE TOURS AND FIRST CLASS SUPERIOR ACCOMMODATIONS. WE REQUEST THE OPPORTUNITY TO DISCUSS THESE MATTERS WITH YOU AND YOUR MEMBERS AT THE EARLIEST POSSIBLE OPPORTUNITY.

T. J. DONOVAN, PRESIDENT
AMERICAN SOCIETY OF TRAVEL AGENTS

(cont.....)

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(4)

(Exh. 135)

400a

Exhibit 135

To: Active, Active Associate, NWA
and NWA Associate Members of ASTAs

-3-

May 23, 1956

ASTA will continue to exert diligent and persuasive efforts towards the further adjustments in commission payments. It is ASTA's firm conviction that negotiations should be continued to bring about an equitable and fair return for the service, promotion and production on the part of travel agents. ←

You will be kept posted as matters progress.

Yours very truly,

W. F. McGrath
W. F. McGrath
Executive Vice President

T. J. DONOVAN, PRESIDENT
A. L. SIMMONS, SECRETARY

F 300

313

66

401a

Exhibit 138

	10 Cum	30 Cum	60 Cum	90 Cum	Total	
1947	2662	80452	80457	114597	37269	1
1948	106341	90466	106177	81167	44411	2
1949	123651	84457	133981	185001	527094	3
1950	134059	76022	131110	326515	567766	4
1951	120928	52519	127008	226793	531058	5
1952	124409	49156	145649	223065	622279	6
1953	149682	45288	171145	321235	667980	7
1954	149789	59432	152945	360424	712400	8
1955	158123	31222	151568	374164	744287	9
1956	164485	31580	147781	396067	740066	10
1957	153739	29875	132502	404400	716186	11
1958	166015	27220	135275	394186	722738	12
1959	160068	24664	113309	357895	654451	13
1960	152211	22225	113777	278422	646729	14

**Initial Decision of E. Robert Seaver,
Hearing Examiner**

I. INTRODUCTION

A. The Investigation

This proceeding is a general investigation of the agreements and practices of two interrelated passenger steamship conferences as they relate to travel agents. It is the first general investigation to be held by the Commission or its predecessors in this area. All of the passenger lines engaged in the trans-Atlantic trade and their travel agents are directly involved, and the result of the proceeding undoubtedly will establish the pattern for the relationships between passenger steamship conferences engaged in the waterborne commerce of the United States and the travel agents that serve them.

The Board¹ instituted the investigation by its order entered November 2, 1959, as a result of a petition filed by the American Society of Travel Agents (ASTA). Its purpose is "to determine whether Agreements 120 and 7840 should be disapproved, cancelled, or modified, insofar as they relate to travel agents, in accordance with Section 15 of the Shipping Act, 1916 (46 U. S. C. 814)". Jurisdiction

—3—

of the Commission lies under sections 15 and 22 of the Shipping Act, 1916 (referred to hereinafter as the Act).

¹ By Reorganization Plan No. 7 of 1961, 75 Stat. 840, effective August 12, 1961, the regulatory functions of the Federal Maritime Board were transferred to the Federal Maritime Commission, and the former agency was abolished. The Federal Maritime Commission, by its General Order 1 of August 14, 1961, 26 F. R. 7788, continued before it all proceedings theretofore pending before the Federal Maritime Board. These Agencies, and their predecessors, will be referred to herein as the "Commission".

*Initial Decision of E. Robert Seaver,
Hearing Examiner*

Hearings were held in New York from May 16 to June 17, 1961, before Examiner Arnold J. Roth. Two prehearing conferences were held and various motions and briefs were filed and decisions rendered relating to discovery procedures. Hearing Counsel and ASTA conducted a searching review of the conference records touching on the matters under investigation. Twenty-six witnesses testified and numerous exhibits were introduced. The parties represented at the hearing included: The two conferences and their member lines, three of which are American-flag and twenty-three foreign-flag, as respondents; ASTA and the three individual travel agencies listed above in the appearances as interveners; and Hearing Counsel, who are members of the Commission's legal staff.

Recently, before he had decided the case, Examiner Roth passed away. The matter was then reassigned and this initial decision is made on the basis of the evidence adduced at the hearing before Examiner Roth. With minor exceptions, there is little disagreement between the parties as to the essential facts. None of the parties have requested a further hearing as a result of the death of the presiding examiner.

B. The Issues

TAPC and APC were organized and they operate under agreements approved by the Commission as required by section 15 of the Act. The two conferences have substantially the same membership, cover the same trade, and are closely allied. They are referred to collectively herein as "the conference" in most instances. They have been in existence since long before the dates of the above agreements, operating under earlier agreements.

*Initial Decision of E. Robert Seaver,
Hearing Examiner*

Section 15 requires that common carriers such as respondents file with the Commission every agreement providing

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for a cooperative working arrangement such as Agreements 120 and 7840. It provides an exemption from the Antitrust laws to the parties to such agreements if and so long as they are approved by the Commission. Section 15 provides, in pertinent part:

The Commission shall by order, after notice and hearing, disapprove, cancel or modify any agreement . . . that it finds to . . . operate to the detriment of the commerce of the United States,* or to be in violation of this Act, and shall approve all other agreement modifications, or cancellations. . . .

. . . Agreements, modifications, and cancellations shall be lawful only when and as long as approved by the Commission; before approval or after disapproval it shall be unlawful to carry out in whole or in part, directly or indirectly, any such agreement, modification, or cancellation.

Every agreement, modification, or cancellation lawful under this section . . . shall be excepted from the [Antitrust laws].

Fundamentally, the question is whether certain provisions of Agreements 120 and 7840, relating to the collective action of the conferences and their member lines in the selection, control and supervision of travel agents, and certain practices followed by respondents in this connection

* After the record was closed in this proceeding, section 15 was amended so as to add, at this point, the clause "or to be contrary to the public interest". Public Law 87-346, sec. 2, 75 Stat. 762.

*Initial Decision of E. Robert Seaver,
Hearing Examiner.*

pursuant to the agreements, operate to the detriment of the commerce of the United States, are contrary to the public interest, or otherwise violate the Act, as contended by interveners and Hearing Counsel. If so, the agreements must be modified or cancelled, at least in part. Under the Agreements, the member lines cannot appoint persons as travel agents in the large port cities who have not been approved by the conference and placed on the eligible list, and they must terminate the appointment of any agency that is removed from the eligible list. The Agreements also contain many detailed provisions covering the control of the agencies and their conduct after appointment.

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Specifically, Hearing Counsel contends that certain aspects of the Agreements and certain practices thereunder operate to the detriment of commerce, are contrary to the public interest, and violate the statute in the following respects: (Contentions of Hearing Counsel and ASTA will be discussed more fully herein under the discussion of these various points.)

1. Regarding the selection by the conference of those travel agencies that are to be eligible for appointment by the individual member lines, it is contended that:
 - (a) The conference has failed to adopt uniform and objective standards of qualifications of persons who make application to be placed on the eligible list.
 - (b) The conference has failed to advise applicants of the standards of qualifications for eligibility.

*Initial Decision of E. Robert Seaver,
Hearing Examiner*

- (c) The conference has failed to place every applicant on the eligible list who meets the standards.
- (d) The conference has failed to act promptly on applications and to advise the applicant of the action taken, giving reasons therefor.
- (e) The conference has unlawfully refused to place applicants on the eligible list on the arbitrary ground that:
 - (i) The applicant is a freight forwarder.
 - (ii) The applicant is a part of or has its place of business in a department store or automobile club.
 - (iii) In New York, the applicant's place of business is south of Fulton Street.

The conference adopted this practice without first obtaining Commission approval, and approval could

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not be granted under section 15 because the conference sometimes accepts agents in these categories because they are called "exceptional cases". This test is so indefinite as to be arbitrary.

2. The conference has adopted arbitrary ceilings or quotas for the number of agents that can be placed on the eligible list in certain cities.
3. The conference has declined to consider applicants who are not sponsored by member lines.
4. Decisions of the conferences, including the establishment of the rate of commission to be paid to travel agents, are taken only by unanimous action of the member lines.

*Initial Decision of E. Robert Seaver,
Hearing Examiner*

5. The conferences do not record a vote on various issues and submit the result thereof to the Commission.
6. The conferences prohibit their agents from selling passage on non-conference lines.
7. The conferences control the sale and transfer of travel agencies but they have failed to establish uniform standards regarding the consent to or disapproval of such sales or transfers.
8. The conferences also exercise control over changes in officers and in the name or address of the agents. This control should be exercised by the appointing lines and not by the conferences.
9. The conferences fail to report to the Commission any action on penalties assessed against agents by the conferences for infraction of the rules.
10. The conferences permit member lines that are not engaged in the commerce of the United States to vote on the level of commissions paid to agents in the United States.
11. The conferences cancel the eligibility of agents arbitrarily and without explicit minimum standards of
—7—
performance and without giving advance notice to the agent and an opportunity for the agent to correct the deficiency.
12. The conference fails to maintain adequate records and minutes of meetings and submit them to the Commission.

*Initial Decision of E. Robert Seaver,
Hearing Examiner*

ASTA asserts most of the objections raised by Hearing Counsel and, in addition, contends that the following rules and practices of the conference violate the Act:

1. The 7% commission paid to agents by the lines, which is the ceiling established by the conference, is noncompensatory and unlawful for that and other reasons.
2. The conference procedure for bonding the agents does not protect the public against defaults by the lines.
3. The conferences should have but do not have a system for arbitration or other independent judgment or review of conference action in cancelling an agent's eligibility, refusing to permit the sale of an agency, or assessing a penalty against an agent.

The other interveners, who are travel agents who have been denied conference acceptance, complain of conference practices relating to appointments. These agents participated in part of the hearing but they did not file briefs. Apparently their contentions are covered in the above outline of the points urged by others and they will not require separate discussion herein. Only ASTA, Hearing Counsel and respondents filed briefs.

The foregoing contentions of the parties raise the issues that were the subject of the hearing. It is significant to note that neither Hearing Counsel nor ASTA contend that the conference agreement should be cancelled outright insofar as it relates to travel agents. In other words, they do not question the value of the conference system in general

*Initial Decision of E. Robert Seaver,
Hearing Examiner*

nor the overall program whereby the members of TAPC

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and APC collectively exert control over the appointment and control of travel agents. Examiner Roth did not seek to go into this broad issue, and nothing appears in the record that indicates that he should have done so. A brief coverage of the question is included in the Discussion section, page 48, *infra*.

Before leaving this description of the issues in this proceeding, a word is necessary in regard to the matter of the level of commissions. A thorough analysis of Examiner Roth's rulings on objections made during the course of the hearing demonstrates that, in his judgment, the isolated question of the reasonableness of the level of the commissions paid to the travel agents is irrelevant to this proceeding or that the Commission lacks jurisdiction over the question, or both. He deemed it to be relevant only as it bears on other issues such as the questions concerning the unanimity voting rule and the alleged secrecy of conference meetings. His rulings and the impact of them will be discussed further herein in connection with these respective points.

An issue discussed by Hearing Counsel, but as to which they do not request specific relief, is a problem which arises out of the fact that most of the agents also represent airlines. The agents are in a position, on occasion, to divert bookings from one mode of transportation to the other for reasons other than the best interest of the traveler or their principals, and they have done so. This problem is obviously one of importance to the travelling public and it will be taken up in the course of this decision.

*Initial Decision of E. Robert Seaver,
Hearing Examiner*

II. THE FACTS

A. Travel Agents and Their Role in Ocean Commerce

There are about 4000 travel agents in the United States who represent the conference carriers. About a third of these are members of ASTA. There are some 575 agencies in New York alone. Each of the lines have not appointed

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all of the agents on the eligible list established by the conference. For example, United States Lines has appointed 2500 agents in the United States; American Export 2600; and Holland-American 2600. Neither Hearing Counsel nor respondents have questioned the efficiency nor the effectiveness of this corps of agents in their principle function, the sale of transportation. In 1960 they sold 75 or 80% of all Trans-Atlantic steamship passenger bookings made in this country, other than on cruises. These bookings brought in a total revenue of \$106,000,000. to the lines. The agents received 7% of this as their commissions. The conference and its member lines acknowledge that the appointed travel agents constitute their principal sales force.

The collective action of the carriers relative to the appointment and control of agents² is confined, for all prac-

² In conference parlance, they are often called "sub-agents" probably because, long ago, the conference agreement was set up in a manner that contemplated that each line would appoint "general agents" in various areas who would, in turn, handle the control of "sub-agents". Among the lines that sent witnesses to the hearing, only one has a general agent in this country and that one does not seem to function in the manner contemplated by the agreement. The term "sub-agent" is confusing, and it will not be used in this decision. The American lines employ the general agents in Europe, U. S. Lines and American Export each having about 30 there, general agents are paid a 2½% override on bookings of agents under them.

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tical purposes as far as this proceeding is concerned, to the 1200 agents who represent the conference carriers in the areas described in the agreement as the "Metropolitan Eligible List Territories". In other areas, the agents are selected and controlled almost entirely by the individual lines, without the collective action of the conference, except in the case of agencies in department stores and automobile clubs, who are subject to the screening process of the conference. In the "Metropolitan Eligible List Territories", being the areas including and immediately surrounding New York, Boston, Philadelphia, Chicago, Los Angeles, and San Francisco, the conference agreement pro-

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hibits the appointment of an agent by an individual line unless that agent has been placed on the eligible list by the conference. The individual lines are required to cancel the appointment if the agent is later stricken from the eligible list.

The conference also retains jurisdiction to disapprove changes in the officers or the name, address, or ownership of the agencies in the metropolitan list areas. The conference has retained power to entertain complaints against the agent, to collect fees in the nature of membership fees or franchise fees from the agent, to require surety bonds of the agents, to audit the books of the agent, to impose fines and penalties for infraction of the rules by the agents. Of paramount importance to the agents, the conference establishes the maximum rate of commission that can be paid by the member lines to the agents. The lines are at liberty to pay a smaller commission, but no line has exercised this option and it is likely that competitive factors would prohibit their ever doing so.

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A "wholesale" agent is one who sponsors cruises by arranging for the various components thereof such as the steamship or airplane passage, hotel accommodations, and sightseeing accommodations. The "retail" agent sells the packaged arrangement to the traveler after the wholesaler sets up the cruise and supplies folders and the like to the retailer. In addition to the 7% commission he receives from the TAPC line, he is paid a 3% commission by the wholesaler on those items other than the steamship fare. The wholesaler does not receive any net remuneration from the shipline in these circumstances. His revenue comes from commissions on other elements of the tour package. Under the somewhat similar arrangement of the International Air Transportation Association (IATA), an association of airlines in foreign commerce, a 10% commission is paid on the air transport portion of certain tours.

A large majority of agents in metropolitan list territories handle retail business exclusively. The agents who act as

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wholesale agents also act as retail agents. The great majority engage exclusively in the travel business and practically all agents represent airlines as well as steamship lines. They also represent steamship lines operating in other trades to and from the United States, who, through other conferences, have their own rules whereby they collectively appoint and control agents.³ Of those who engage in business in addition to the travel business, over half engage in the insurance business.

According to a survey conducted by Hearing Counsel through the circulation of a questionnaire to some 1100 agents, the agencies are generally small in size. About one

³ The Report of the Antitrust Subcommittee of the House of Representatives on the Ocean Freight Industry, March 1, 1962, discusses the general practices of other passenger conferences.

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half of them are incorporated, the rest doing business as individuals or partnerships. About 70% have 5 or fewer employees and 15% have but 1 employee; 10% reported gross bookings less than \$25,000 for 1960, and 56% reported gross bookings less than \$500,000.; almost 50% reported net earnings under \$5,000. and 77% reported net earnings in amounts less than \$15,000. for that year. Respondents' statistical witness questioned the accuracy of some of these statistical conclusions, and it is readily apparent that the net earnings figures could not be taken as conclusive without the examination of additional data. However, for purposes of general background, the statistics assembled from the data compiled by Hearing Counsel is acceptable. It was good enough that respondents did not seek to disprove it by rebuttal evidence.

The legal status of travel agents in relationship to the respondent lines is not susceptible of a general definition for all purposes. Judged from the record as a whole, they might, for example, be held to be agents if the inquiry were

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one in regard to, say, the tort liability of the lines arising out of certain acts of the agent on their behalf. They might be considered as independent contractors for other purposes. They are not employees of the lines in the sense that they would be permitted to organize and bargain collectively under the national labor laws. They would undoubtedly be prohibited by the Antitrust laws from collectively fixing the charges for their services⁴ or collectively boycotting those who reject their demands.⁵

⁴ *United States v. Socony-Vacuum Oil Co.*, 310 U. S. 150 (1940); *United States v. Trenton Potteries Co.*, 273 U. S. 392 (1927).

⁵ *Klor's Inc. v. Broadway-Hale Stores*, 359 U. S. 207 (1959); *Fashion Originators' Guild, Inc. v. FTC*, 312 U. S. 457 (1941).

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The American Society of Travel Agents (ASTA) is the largest trade association of travel agents in the United States. It represents about 1400 travel agents. Some steamship company officials are also members of ASTA. It is an incorporated association whose function, among others, is to promote the interest of travel agents. ASTA and similar trade organizations in Europe formerly communicated separately with the conference regarding matters affecting travel agents. More recently, the International Consultative Counsel of Travel Agents (ICCPA), consisting of representatives from ASTA, the Association of British Travel Agents, and other associations of agents in Europe was founded and in the years 1955, 1956, and 1957, met with a special committee of the conference to discuss problems of the agents, of the carriers, and mutual problems. ASTA had, at the time of the hearing, declined to attend similar meetings since this proceeding was instituted.

B. The Conferences

1. The Trans-Atlantic Passenger Steamship Conference

TAPC and APC, like steamship conferences in general, can be defined generally as "voluntary associations of ocean common carriers formed so that the members may agree upon rates and certain other competitive practices".⁶ These two conferences and their predecessor organizations have
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been in existence for at least 80 years. The TAPC membership consist of two American-flag carriers, American Export Lines and United States Lines, and twenty-three foreign-flag lines. The contract under which this conference

⁶ Senate Report No. 860, 87th Congress, First Session, Page 4 (1961).

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was founded, and which was approved by the Commission on February 12, 1929, is Agreement No. 120. The agreement provides that the purposes of the conference is "to cooperate, act, harmonize policy, and regulate all matters, other than the fixation of rates and commission, relating to the operation and enforcement in the United States and Canada of the Atlantic Passenger Steamship Conferences (Folkestone, England) Agreement and the rules and regulation adopted thereunder . . .".

Agreement No. 120 contains comprehensive provisions relating to the selection and control of travel agents. These provisions were substantially the same when the Commission approved the agreement. It provides for a permanent conference committee known as the Committee on Control of Sub-Agencies (Control Committee), which is vested with broad powers relating to agents in metropolitan list territories. The Control Committee decides which applicants will be placed upon the list of agents in the metropolitan areas; decides which agents holding appointment in those areas should be retained or cancelled; and obtains from the lines or agents such information as the committee requires to carry out its functions.

Agreement No. 120 was introduced in the record in this proceeding as Exhibit I. Article E thereof defines the rights and obligations of the member lines with respect to relationships with the agencies and with one another in this connection and it prescribes the standard of conduct of agents. It sets forth a uniform Agency Appointment Agreement that each appointed agent must sign with the member line, and a set of Rules governing the relationship between the member lines and their appointed agents. Agreement

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No. 120 governs all of the issues raised by the parties ex-

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cept the rate of commissions, which is covered by Agreement No. 7840. Despite its importance to this proceeding, it would be impractical to incorporate the Agreement in this decision because it is quite lengthy. Portions are quoted herein under the factual discussion pertaining to particular issues.

2. The Atlantic Passenger Steamship Conference

The APC was organized and it operates under Agreement No. 7840 which was approved by the Commission on August 29, 1946. Subsequent amendments have been adopted from time to time and approved by the Commission. This conference, or its predecessors, were in operation for many years before 1946 under prior agreements, but the operations were interrupted during World War II. The voting membership of the APC is same as that of TAPC except that it includes one additional American-flag line, American President Lines, and it does not include Spanish Line. APC is domiciled in Folkestone, England and holds its meetings in the United Kingdom or in Europe. Its records are located in Folkestone. Agreements 7840 and 120 govern passenger traffic on ships owned or operated by the member lines between all ports of European, Mediterranean, and Black Sea Countries plus the ports of Morocco, Madeira, and the Azores, on the one hand, and all ports on the East Coast of North America and United States Gulf Ports, on the other.

APC establishes uniform fares and the rates of commission payable to agents by the member lines. It has no function with respect to the appointment, dismissal, or

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control of agents in the United States, these matters being within the jurisdiction of the TAPC. The APC does exercise those functions with respect to agents in the United Kingdom and Europe. TAPC has no jurisdiction over the matter of fares and commissions, but its views are sometimes requested by APC, as well as factual data. These reports are sometimes treated as confidential by APC.

It is thus seen that the two conferences are very closely allied. TAPC is, in a large sense, an arm of APC. The

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purpose of APC is set forth as follows in its charter, Article 1(c):

PURPOSE. Recognizing that efficient and economic trans-Atlantic travel is in the public interest the purpose of the Conference is to promote and cultivate trans-Atlantic travel in the best practicable conditions, to maintain friendly cooperation among the Member Lines, to establish and maintain equitable fares, to regulate rates of commissions, to coordinate action, harmonize policies and regulate conditions generally for, or in connection with, the transportation of passengers as set forth in this Agreement.

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D. Control of Agencies After Appointment

1. Prohibition on Sales of Transportation for Non-Conference Lines—The Tying Rule

It is desirable to digress at this point and describe briefly the format of the TAPC Agreement as it relates to certain Rules of the conference. These Rules are described as either the "green rules" or the "white rules", depending

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on the color of the paper used to identify the separate sets of rules. The green rules are those deemed to require Commission approval under section 15 of the Act, and are submitted to the Commission for approval. The rules published on white paper are not deemed by the conference (TAPC) to require approval, but they are filed with the Commission for information purposes. Both the green rules and the conference Agreement contain the tying provisions.

Paragraph (E)(e) of Agreement No. 120 provides:

Sub-Agencies Selling Tickets for Non-Member Lines—

A sub-agency shall be prohibited from selling passage tickets for any steamer not connected with the fleets of the member Lines for which it has been duly appointed or from representing in any capacity any steamship company operating such a steamer, if such steamer, is operating in any competitive trans-Atlantic trade (unless written permission to do so is first obtained from the member Lines), or acting or representing itself as agency for, or as entitled to do business with, any member Line it does not represent by regular appointment. This rule shall not prevent any sub-agent from booking for any United States Government Line.

Rule E-2(b)5 of the green rules (the so-called "(E) Rules" Governing the Activities of Sub-Agencies in North America) also contains a provision which prohibits the agent booking passengers for steamers not connected with the fleets of the member lines. The conference witnesses testified in justification of this rule that competitive lines

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should not be permitted to enjoy the advantages that would accrue to them by the use of the agency organizations established by the conferences through its practice of selection, bonding, and general supervision. They testified that

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if other lines are to use the services of the agents appointed by the conference members, they should be required to conform to the rules and rates established by the conference. The rule is an anti-competitive device—its purpose being to keep non-conference lines out of the trade—thus, factors in regard to the competition in this trade become relevant.

All passenger lines operating in the trade served by members of TAPC and covered by Agreement No. 120 are members of the conference. The only non-conference carrier which transport passengers in this trade are occasional cargo vessels that have a normal capability of transporting about 12 passengers. The vessels of the conference lines transport 99% of the passengers moving by ocean carriers in this trade. The freighter services must rely on travel agents for the sale of ocean transportation to the same extent that the conference lines do. The only lines affected by the tying rule are the freight services. The only exception that might occur is the possibility that lines who are presently members of the conference might choose to become independent by relinquishing their membership if the tying rule were abolished. This is speculative, however, and therefore will not be considered further in reaching a conclusion on this point.

The competition of trans-Atlantic air carriers is a much greater economic threat to the conference lines than the competition of non-conference ocean carriers. Air carriers

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have offered increasing competition to shiplines with the advent of jet aircraft. The rule quoted above does not prohibit the agents from booking trans-Atlantic travel via air carriers.

Infraction of the tying rule subjects the agent to cancellation of his appointment or to a fine or penalty. The usual procedure has been to send the agent a warning letter, and no agent has lost his appointment because he booked passengers on a non-conference line.

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*E. The Unanimity Rule—Impact on Appointments and on
Commissions: Other Conference Procedure re Meetings*

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Under the basic agreements of the two conferences and the rules of the TAPC, decisions of the conferences and their constituent committees on the matters that are under examination in this proceeding can only be taken with the unanimous approval of the member lines or the members of the various committees. Unanimous approval of the Control Committee is required to place an applicant on the eligible list of agents in metropolitan list areas. Unanimity is also required before a sale or transfer or change of officers or of address or name can be approved, and before an agency can be cancelled from the eligible list. Article A(g) of Agreement No. 120 requires that all action taken by the conference must be unanimously agreed upon or subsequently confirmed by all members of the conference before becoming operative, except as otherwise set forth in agreement. This appears to apply to the matter of assessment of penalties for infractions of the rules

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under paragraph 23 of rule E-2(b). Article 3(d) of Agreement No. 7840 requires that all action by APC be taken by unanimous agreement of the member lines except as otherwise provided in the agreement. Actions with respect to rates and commissions require unanimous approval under Article 4(a) and 6(a), respectively.

The unanimity rule has on many occasions prevented the selection of applicants for the lists of eligible agents. In 1959 the Philadelphia local committee rejected an applicant because of a single dissenting vote. Three applicants were rejected in Los Angeles in 1951 by 8 to 2 votes and one by an 8 to 1 vote.

The requirement of unanimous approval of conference action and the alleged impact of the rule on the amount of commission paid to agents are the subject of a great deal of criticism by ASTA. Their objections and those of Hearing Counsel will be discussed in the Discussion and Conclusions section of this decision. In support of their contentions these parties point out the following facts, which are supported by the record. While unanimous approval

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of the membership of APC would be required to raise the rate of commission, at least seven of the members engage in little or no service to or from the United States. The meetings are conducted on an informal basis and a vote of the members is neither taken, recorded, nor filed with the Commission. The conference records show that in 1950 and again in 1951 a sub-committee of APC was unable, because of the unanimity rule, to recommend a proposed increase in commissions, although the majority was prepared to increase the commission from 6 to 7½ percent. This sub-committee did not have the power to take final action,

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but its function was to recommend action to the Principals. In 1951 the conference increased the commission to 7½ percent, except on passage booked during the high volume summer season where a 6 percent commission remained in effect. Proposals to increase commissions were taken up and action was deferred at meetings in 1952 and 1953. The question was taken up again in 1956, when the present commission of 7 percent on all bookings was established. ASTA estimated, at the time, that this would mean a net increase in all commissions of \$1,000,000. per year. Since that time, representatives of travel agents have sought increases in the commission level but the APC minutes indicate that the lines "are unable to agree". The record is inconclusive, of course, as to whether different action on rates would have been taken under a majority rule. A finding on this question would enter the realm of speculation, because the members might have taken different positions if a majority rule had been applicable.

Evidence adduced by the conference demonstrates that differences between members are usually eliminated or compromised and that the minority ordinarily gives way to the majority, sometimes not instantly but, eventually, agreement is reached. Conference witnesses testified that neither a single member nor a small minority has ever vetoed proposed conference action on commissions. It is

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quite apparent, however, that under the rule of this or any conference requiring unanimous approval, a single member *could* veto action in regard to commission and any other matter desired by all the other members.

Under the conference agreements the decision to change the unanimity rule to a majority rule or some other rule

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that would require the consent of less than the full membership, would require the unanimous approval of all conference members.

The executives of the American-flag steamship lines which are members of APC, and who testified at the hearing, stated that in view of the small minority of American-flag lines in the conference, the unanimity rule was of substantial value to the American-flag lines. They stated that the rules were necessary to protect the interests of the American operators and, without exceptions, they favored the rule. Respondents assert that the advantages of unanimity is to prevent travel agents from playing one line against another. They state that when all lines participate in the selection of rates of commission, no line is in a position to say that it is favoring agents more than another. Evidence was introduced by respondents that establishes the fact that since the year 1879 the predecessor conference of respondents have all adhered to the unanimity rule.

Minutes of both of the conferences touching on agency matters are filed with the Commission, as required by its regulations, but they consist only of a bob-tailed report of final action taken at the particular meeting involved. Neither the agenda of the meeting, a report of the discussion of the members, nor any reference to proposals that were discussed but not adopted are filed. Votes of the members of the conference are not reported because votes are not taken. Article 3(e)(iii) of Agreement 7840 requires that an agenda be circulated in advance of each meeting. Article A(f)(2) of Agreement 120 contains a similar provision.

Article H(f) of Agreement 120 provides:

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Deliberations Confidential—All resolutions, deliberations, considerations, discussions, and informal or other conversations between or among the member Lines, in Conference or otherwise, which do not result in agreed actions, shall be considered as confidential in the highest degree and shall not be divulged to sub-agents or unauthorized persons.

Article 9(g) of Agreement No. 7840 provides:

Deliberations Confidential. The Member Lines bind themselves not to permit any communications concerning the proceedings, or resolutions, of the Member Lines, to be given to uninterested third persons without the unanimous consent of the Member Lines. As an exception press announcements may be made, but only with the unanimous consent of the Member Lines. The deliberations of the Conference, and all Conference documents circulated to the Member Lines shall be regarded as private and confidential, and shall not be communicated to outside parties, including agents.

The practice of the conference has been to keep secret many of its actions and even its rules regarding the selection of agents. For example, TAPC did not advise applicants of the quota system or even the unanimity rule. They endeavored to keep the latter rule secret. The Chairman of the Control Committee criticized the Chairman of the Boston local committee for advising one Rudsten, in 1953, that he was not selected because of the failure to obtain unanimous agreement.

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F. Level of Commissions

The complaint of ASTA is based largely on the contention that the agents are not paid a high enough rate of commission. Even the ASTA arguments in opposition to the APC unanimity rule and certain other practices are motivated by a desire to have the rate of commission increased.

At present there exists a substantial equilibrium between the commissions paid by the air and ocean carriers in this trade in that both pay 7% on regular point-to-point bookings. The record does not support a finding that this parity resulted from coordinated action between the two, as alleged

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by ASTA, nor from any combination, collaboration, secret agreements or conspiracy. On the contrary, APC actions with respect to commission rates have resulted from a desire and a need to meet the increasing competition of the airlines.

A disparity between the air and sea commissions existed at the time of the hearing with respect to the commission paid on the international portion of air tours that include land travel and shipboard cruises. The airlines pay a 10% commission on the air portion of bookings of this type, called foreign inclusive tours ("F. I. T.", in the trade), while the APC lines paid 7% on the sea portion of cruises. This disparity itself tends to demonstrate that absence of collaboration. As stated above, the APC shiplines are said to have recently increased the commission to 10% on these bookings, since the date of the hearing.

The ASTA attack on the level of commissions is also based on the contentions that the rate is non-compensatory and, therefore, detrimental to the commerce of the United

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States; that it is detrimental to commerce because it is not competitive with the airlines; that it is a "burden not only on the travel agents but also on the other forms of transportation served by them"; and that it is contrary to the public interest.

ASTA asserts that the alleged collaboration between the conference and IATA on commission matters is material to the issue of whether the unanimity rule has been abused. It points to the conference action in 1950, when the conference gave consideration to the desirability of writing a letter to the international airlines discussing the rate of commissions and the proposal of United States Lines in 1950 to increase commissions, wherein it was stated that adoption of a 7% commission "would look bad as it would appear that we were simply following the airlines". ASTA also asserts that the fact that executives of two of the European lines are also directors of international airlines gives them the power "to block steamship competition on com-

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missions" because each of them can, by virtue of the unanimity rule, "exercise his veto power and accomplish what otherwise would have to be sought through inter-conference agreement". The evidence would not support a finding that these relationships have resulted in either an increase or decrease in the rates of commission. As to the alleged conflict of interest the fact is that at least one of the two officials was one who actively sought an increase in the rate of commission to 7½%. The record also would not support a finding that there was collaboration between steamship conferences on the matter of commissions. The evidence of communications between steamship conferences cited by ASTA was a telegram to APC from the Interchange

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Lines Conference which stated that the members of the latter conference had opposed increased commission rates and a letter from Interchange to APC in 1953 proposing a joint meeting to discuss concerted action on the question of commission rates. Examiner Roth excluded this letter from evidence as being irrelevant. As stated in the reply brief of Hearing Counsel, the purported evidence upon which ASTA asserts that there was concerted action between APC and the international airlines or between APC and other steamship conferences is remote and speculative and lacks probative weight. For these reasons the proposed finding on this issue cannot be adopted and these questions need not be discussed further in the Discussions and Conclusions section of this decision.

In the course of the hearing, the presiding examiner excluded evidence on the independent question as to the reasonableness of the level of the rates of commission, per se. During the cross-examination of Mr. Kenneth F. Gautier, Vice President of United States Lines in charge of passenger traffic, Mr. Sisk, counsel for ASTA, sought to inquire whether views were expressed by member lines at conference meetings that they would not desire to have a change in commission unless there was an increase in passenger

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fares. Mr. Sisk asked the witness how the questions of the level of freight rates and the commission issue were connected. Conference counsel objected, stating "I feel that we are now getting again into this whole area of rates which I do not believe are part of this investigation. Certainly the provision of the agreement regarding travel agents—have nothing to do with rates". Taken in context with the entire colloquy at this point in the record, it is seen that

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conference counsel was referring to rates of commission. Examiner Roth stated in reply to the objection "I will agree with you and I have agreed with you as my rulings will indicate with regard to the level of the rates as such but I am fairly convinced that the procedures of both conferences by which those rate levels are established, the conference actions, the actions of the carriers in concert with regard to those matters, and definitely a subject of investigation here. And I will overrule objection to your question." Throughout the hearing, Examiner Roth firmly and consistently sustained objections to evidence touching on the propriety or legality of the level of the rates of commission, as such.

He repeatedly excluded evidence regarding the level of commission necessary for agents to operate at a profit; the amount of commission that would discourage agents from inducing customers to travel by air rather than sea; regarding the relationship between cost of operations and gross revenue of the agents; the agents' cost of operation; the amount of salaries the agents pay their employees; the portion of an agent's business on which he earned the most income; the net profit of particular agents and their cost of doing business; losses of a particular agency on the steamship end of its business; evidence of commission earned in a different trade route, under a different conference. Examiner Roth excluded four exhibits consisting of extensive surveys reflecting the income, expenses, and profit (or loss) of agents.

One of the arguments advanced by ASTA, perhaps its principle argument, is that the level of commissions is non-

compensatory and for this and other reasons is detrimental

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to the commerce of the United States and that portions of the conference agreements must be disapproved for this reason. Hearing Counsel states, and the respondents deny, that the commission has jurisdiction to pass on the level of commissions, as such. The rate cases^{*} and those concerned with brokerage^o cited by Hearing Counsel are of questionable applicability. In any event, Hearing Counsel concludes:

This record, however, contains no direct and reliable evidence to show that the 7% commission established by the APC is an unreasonably high or low measure of compensation for sub-agents. The record moreover does not show whether the financial structure of the respective lines is capable of meeting a rise in the level of commission without a concomitant rise in passenger fares. Under the circumstances, there is no basis for finding that the 7% commission payable to travel agents is so low as to be detrimental to the commerce of the United States.

Hearing Counsel correctly state that the record in this proceeding does not support a finding that the level of rate of commissions is unreasonably low. As demonstrated

^{*} *Edmund Weil v. Italian Line*, 1 U. S. S. B. B. 395 (1935).
In the Matter of Rates, Charges, etc., 2 U. S. M. C. 28 (1939).

^o *Agreements and Practices, etc.*, 3 U. S. M. C. 170 (1949). *The Joint Committee, etc. v. Pacific Westbound Conf.*, 4 F. M. B. 166 (1953). In *Agreements and Practices, etc.* the Commission was careful to point out on page 176, regarding jurisdiction over conference rules concerning the payment of brokerage, that "we are not undertaking to pass on the reasonableness of any payment nor are we undertaking to establish any level of payment."

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above, Examiner Roth believed that this is not an issue in this proceeding. It is unnecessary to discuss the correctness of his view and his rulings on the evidence here unless his decisions were so clearly erroneous as to indicate the necessity or desirability of reopening the record for further proof on this issue. The question of the Commission's jurisdiction over this issue is certainly not free from doubt and I have by no means concluded that Examiner Roth was clearly in error.¹⁰ Nearly two years have elapsed since

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the hearing was held and three years since the investigation was instituted. The question of the level of commission, as such, even if it is within the Commission's jurisdiction and even assuming that the Commission intended that this issue be included in the investigation (which is also open to question), is only one of many subjects that were covered in the investigation. If findings were made on this issue in the state of this record, this would result in such unfairness and prejudice to respondents as to amount to lack of due process because, in view of Examiner Roth's rulings, respondents were led to believe that this was not an issue and were thus deprived of the right to introduce evidence in rebuttal. To reopen the record in order to provide both sides an opportunity to submit proofs on this question would substantially delay the submission of the initial

¹⁰ Jurisdiction over commissions, as such, could surely not be inferred any more readily than it could over freight rates. There was such doubt as to the latter that Congress recently enacted explicit authority for the Commission to consider the reasonableness of rates in foreign commerce. Public Law 87-346, Sec. 18(b)(5). No such explicit statutory authority has been enacted with respect to the reasonableness of commissions paid to agents. The Commission unquestionably has jurisdiction to consider conference agreements and practices that may influence the level of commissions. This is another matter.

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decision. In view of these considerations, the proper course is to submit the initial decision expeditiously on the existing record.

*G. Impact of Rates of Commission on Competition with
Airlines*

The trans-Atlantic steamship passenger lines have experienced serious and increasing competition from international air carriers. APC bookings of passengers has shown little if any increase since 1955 while their airline competitors have increased their bookings tremendously. Many travelers find air travel more suitable because of the savings in time, particularly since the introduction of jet aircraft. Extensive advertisement by the airlines and other factors have also contributed to the great increase in air travel. However, the record in this proceeding establishes the fact that water carrier bookings have been retarded to a degree and air carrier bookings have increased because the agents, substantially all of whom serve both sea and air carriers,

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have often found it to be to their own interest to push, or favor, air travel.

Both the steamship lines and the airlines presently pay 7% commission to the agents on international travel in the areas served by respondents. The airlines pay 10% commission on the air portion of tours, while (at the time of the hearing) the shiplines pay only 7% commission on the sale of cruise bookings. This disparity provides an inducement to the agents to favor the sale of F. I. T.'s by air rather than sea. Apparently the shiplines have raised their commissions on cruises to 10% since the hearing. If so, this cause for the agents giving preference to the airlines

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will be eliminated; but this has not been the paramount reason for the preference.

The temptation for the agent to divert passengers from sea to air travel stems, in part, from the fact that a substantial percentage of travelers who come to the agent are undecided as to the means of transportation they prefer. At least 15% of all of the customers of the agent fall into this category. One agent testified that as many as 25 or 35% of the customers are undecided and can be persuaded by the agent to travel by air rather than by sea.

The main factor that has often led the agent to sell airplane passage rather than steamship passage is the relative difficulty involved in booking the two types of travel. Ticketing procedure for air travel is relatively simple as compared to steamship procedures. Air reservations are generally placed by the agent by merely telephoning the air carrier office and obtaining space. For water travel, the procedure is substantially more cumbersome and time consuming. Steamer accommodations must generally be secured through correspondence and problems are often encountered by the agent in obtaining the desired accommodations. Several years of experience are required before a steamship passage salesman becomes really competent, while only a few months of experience are needed to qualify

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salesmen to handle air bookings. In selling air passage, the only concern is the transportation of the customer, while the sale of steamship bookings require attention to a host of other problems and needs of the traveler. For example, the sea traveler requires assistance in connection with complicated sailing schedules, ports of call, class of travel de-

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sired, selection of staterooms, dining reservations, deck chairs and other facilities, attire, entertainment, tipping, arranging *bon voyage* parties, and many other aspects of shipboard travel. The agent spends at least 3 or 4 times as much time in selling and arranging a steamer booking as he does for air transportation and, as was testified by one of the agents, time is money in this occupation. One substantial travel agency head testified that it takes 10 times as much time to sell steamship accommodations as it does to sell air passage.

An economic advantage accrues to the agent in selling air transportation instead of steamship passage, for the foregoing reasons. The record establishes that before appointment as an agent for the steamship lines, agents have been quite successful in diverting travelers from steamship to airplane travel in this trade. The record establishes further that some agents who have been appointed by the TAPC member lines as well as the airlines have influenced travelers to travel by air rather than by sea. This has been done with the interest of the agent in mind rather than that of the traveler. The record does not establish precise data on the extent of this because it is not the sort of activity one would volunteer to disclose in detail, but it is clear that this practice is prevalent enough to constitute a substantial competitive disadvantage for the shiplines and an interference with a free and objective choice between the two modes of transportation by potential travelers, such interference being based on the self-serving interest of the travel agents.

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III DISCUSSION AND CONCLUSIONS

*A. The Conference System and Collective Control Over
Agency Matters*

The parties have not raised the broad question of the propriety or legality of the conference Agreements insofar as they relate to travel agents, that is, the overall program whereby the lines collectively select and control their agents. They only challenge particular rules and practices of the conferences, as set forth under the description of the issues on page 3. The investigation does not reveal any factors that indicate that the Examiner or the Commission should make further inquiry into this general question. However, since the Commission's order of investigation herein is broad enough to cover this fundamental question, before leaving it the testimony of a witness on behalf of ASTA, the organization whose complaint precipitated this investigation, should be set out. This testimony typifies the ASTA position on the question.

Mr. Thomas J. Donovan owns a Chicago travel agency as Cartan Travel Bureau, Inc. which does a relatively large amount of business, having booked \$6,500,000. in fares in 1960. He has been in the travel business for over 25 years, served ASTA as its President in 1955 and 1956, and was one of the main spokesmen for the travel agents at the hearing. Hearing Counsel brought out the following testimony of Mr. Donovan in the course of cross-examination:

Well, I think it is the position of ASTA, and it is my personal opinion, that the conference is the only *modus operandi* to run a respectable business. The carriers

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and the principals [top officers of the lines, who meet together and make the high level policy decisions of the conference] must have some control over their salesmen and their agents, and you just can't have anybody who owns a banana stand and a ball point pen selling steamship tickets or air tickets or any other kind of travel. (Statement in brackets added.)

The record contains no substantial evidence that departs from the position expressed by Mr. Donovan. In its brief ASTA acknowledges that there is a need for conference supervision over the appointment (page 48) and transfer (page 55) of agencies. It cannot be found that the Agreements or the rules and practices thereunder, as they relate

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to travel agents, should be disapproved or cancelled, *in toto*, provided they are modified in accordance with this decision.

B. The Statutes and Precedents—Applicable General Policy and Principles

The Commission has jurisdiction to conduct investigations over subject matter such as that involved herein under section 22 of the Act (46 U. S. C. 821), which authorizes the Commission to "investigate any violation of this Act." The conference agreements are governed by section 15 of the Act.

Before it was amended on October 3, 1961, section 15 provided that the Commission "may", and as amended that section provides that the Commission "shall", disapprove, cancel, or modify any agreement that it finds to be unjustly discriminatory or unfair as between carriers, shippers, ex-

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porters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be in violation of the Act. As amended, the statute also condemns any agreement found to be contrary to the public interest. The section provides, both before and after amendment, that the Commission shall approve all agreements, modifications, or cancellations not found to violate the above standards set forth in section 15.

The Commission instituted this investigation and the hearing was held before the statute was amended so as to include the prohibition of agreements and practices that are "contrary to the public interest". None of the parties have requested an opportunity to present additional evidence or to be heard further as a result of the amendment to the statute; indeed, they have all treated the issues, in their briefs, as being governed by the "public interest" test, among others. Thus, there would be no justification for reopening the proceeding for this reason, with the attendant delay in reaching a final decision.

Since this is the first investigation of its kind by the Commission or its predecessors, the case is one of first

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impression. The statute clearly leaves a large area of discretion to the Commission, so that the application of the section 15 standards depends in part upon the policy determinations of the Commission. Certain guide lines have been established by prior decisions, however. In 1936, the Commission's predecessor agency had occasion to look into certain aspects of the TAPC appointment and control of agencies. *Singer v. Trans-Atlantic passenger conference, et al.*, 1 U. S. S. B. B. 520 (1956). That proceeding involved

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the complaint of the investigator of the division of licenses of New York State who in his official capacity had authority to license steamship agencies. Complainant alleged that the conference refusal to pay commission to agents licensed under state law, but who had not been appointed by the conference lines, was unjustly discriminatory and unreasonably prejudicial in violation of sections 14 and 16 of the Act. The Board found that the conference could select its own agents and refuse to pay commissions to those not selected despite the fact that the latter might be licensed under state law. In its decision, the Board stated "the Shipping Act, 1916, was not intended as a substitute for the managerial judgment of carriers", The Board stated further:

The relation of a ticket agent to its principal is of a fiduciary nature. As large sums of money are handled by these agents, the lines should be permitted all possible latitude in their appointment and supervision in order to insure proper protection, to themselves and to the public. No duty rests upon the lines to appoint all ticket sellers as their agents, and it does not appear that the public interest has suffered because of the lines' refusal to pay commissions to all licensees for tickets and orders purchased by them.

There is no question that a steamship line, in its individual capacity, could do any of the things that are done collectively through the conference system in the selection and control of agencies without any question being raised as to the legality of these actions. The individual line would be free to employ whomever it wishes. It is only when these ac-

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tions are taken in concert by the respondent steamship lines that they become susceptible to surveillance by the Commission under section 15.

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The controlling standards by which the conference rules and practices must be tested are those found in section 15 of the Act. *McLean Trucking Co. v. United States*, 321 U. S. 67, 87 (1944); *Isbrandtsen v. United States*, 211 F. (2nd) 51, 57 (1954). However, in the latter case the Court of Appeals for the District of Columbia stated "... the agency entrusted with the duty to protect the public interest [must] scrutinize the agreement to make sure that the conduct thus legalized does not invade the prohibitions of the anti-trust laws any more than is necessary to serve the purposes of the regulatory statute".

In their brief (page 63) Hearing Counsel describe the value of the services of travel agents to the conference lines and the serious competition the steamship lines are experiencing at the hands of the international airlines. They then state:

If ocean carriers are to remain competitive with this newest mode of trans-Atlantic travel, they must make a substantial effort to strengthen their relationship with their appointed travel agents. It is the passenger agents who are in the most advantageous position to put before the public the attractions of ocean travel. Any provisions of TAPC Agreement No. 120 or APC Agreement No. 7840, or any regulations or rules promulgated thereunder, which prevent travel agencies in the United States from rendering complete and effective service both to passengers and to ocean car-

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riers operates to the detriment of the commerce of the United States. All conference-imposed restraints which prevent the travel agent from properly performing his function of selling ocean transportation, for which no reasonable justification exists, should be eliminated by the Commission's disapproval, cancellation, or modification of the subject agreements.

This view of Hearing Counsel as to what kind of treatment of travel agents would be of detriment to the commerce of the United States is sound and, as far as it goes, it is accepted as another basic standard by which the conference practices will be tested. Unreasonable restraints against qualified persons who seek to become travel agents would also be detrimental to commerce.

Congress reaffirmed its policy which permits collective action of steamship lines through the operation of confer-

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ences when it enacted Public Law 87-346 in 1961, after very extensive hearings before the two committees of the House of Representatives having cognizance over shipping matters and antitrust matters. The fact that some of the conference practices might offend ones sense of fireside equity is of no moment. The problem here is to apply the very general statutory tests to the particular issues in this proceeding. The *Singer* case of the United States Shipping Board Bureau is authority for permitting all possible latitude in the action of the respondents in the appointment and supervision of agencies. This philosophy must be tempered, of course, by the need for the Commission to ensure that the prohibitions contemplated by the antitrust laws are not invaded any more than is necessary to serve the pur-

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poses of the regulatory statute, *Isbrandtsen v. The United States, supra*, and by the above concept expressed by Hearing Counsel; namely, that any conference rules of restraints that interfere with the effective contribution by the agencies to our foreign commerce should be disapproved unless there is a reasonable justification for them. The application of the antitrust laws to the circumstances of this case would result in the prohibition of collective action by the lines in the appointment and control of agents. None of the parties seek this result.

The various issues raised by the parties will be considered in the light of these considerations. One further concept that cannot be overlooked is the desirability to maintain (or not to disturb) to the extent consistent with the foregoing principles, the equilibrium established over the years in the relationships between the lines, the conferences, and the agents. Radical changes in these relationships, merely for the sake of change, would inevitably disturb a program that has developed thru years of experience and could lead to problems more serious than those complained of.

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D. Control of Agents After Appointment

1. Prohibition on Sale of Transportation for Non-Conference Lines—The Tying Rule

There are no non-conference passenger vessels serving this trade regularly. It is thus seen that the need for the

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tying rule (Article E(e)), to combat non-conference competition, no longer exists, if it ever did. The rule cited in *Isbrandtsen v. United States, supra*, bears directly on this practice. The Court of Appeals, D. C. Circuit, held in that

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case that the Commission must make sure that the conduct it legalizes under section 15 does not invade the prohibitions of the antitrust laws any more than is necessary in order to serve the purposes of the Act. The rule, absent section 15 exemption, would undoubtedly run afoul of the antitrust laws, *United States v. General Motors*, 121 F. (2nd) 376 (1941); *Vitograph v. Perelman*, 95 F. (2nd) 142 (1938). This record does not demonstrate that the tying rule is necessary in order to promote stability in rates or to combat destructive competition. Actually, a finding can be made on the evidence here that the rule is not necessary. In *Federal Maritime Board v. Isbrandtsen Co.*, 386 U. S. 481 (1938), the Supreme Court said, "Congress was unwilling to tolerate methods involving ties between conferences and shippers designed to stifle independent carrier competition." This reasoning applies equally to conference relations with agents. It is therefore concluded that the rule and practice should be disapproved. If this results in competition of such a nature that it threatens to cause detriment to commerce, or other evils, the conference can apply for reinstatement of the rules under section 15. A similar practice of the airlines was stricken down by the CAB in the *ATC Investigation*.

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E. The Unanimity Rule

Hearing Counsel and ASTA contend that the Unanimity Rule contained in Article 3(d) of Agreement No. 7840 and Article A(g) of Agreement No. 120 has effectively blocked or unduly delayed APC action to increase commissions payable to agents. They state that this failure to increase

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commissions has allowed the airlines to hold a superior competitive position "in relation to travel agents". They conclude that the Unanimity Rule as it pertains to com-

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missions payable to agents in the United States should be disapproved as a detriment to the commerce of the United States under section 15 of the Act.

As pointed out on page 39, the record in this proceeding does not prove that the commissions would have been increased any more than they have been increased if the Unanimity Rule had not been in existence. It would require mere conjecture to find what conclusions might have been reached by the conference if a majority rule had been applicable or a two-thirds rule or a seventy-five percent rule. Even assuming that a majority of the lines might have preferred to increase the rate of commission, it cannot be concluded that the Unanimity Rule must be stricken down as being detrimental to commerce under section 15.

In the absence of the conference agreement, an individual steamship line would decide for itself the amount of commission or compensation it will pay to its agents. It is not difficult to understand why the individual lines would desire to retain a considerable amount of autonomy (or veto power) over the question of commissions when they enter into a conference agreement with other lines. If only a simple majority of the member lines were required to increase or decrease the rate of commission, the will of the conference would be imposed upon that of many of the individual member lines quite frequently on this vital question. If, in their business judgment, the lines all feel the need for the protection afforded them by the Unanimity Rule, this judgment should not be disturbed by

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the Commission unless it results in a clear violation of section 15, *Singer v. Trans-Atlantic Passenger Conference et al.*, 1 U. S. S. B. B. 520 (1936); or invades the prohibitions of the antitrust laws more than is necessary to serve the purposes of the Act, *Isbrandtsen Company v. United States*, 211 Fed. 2d 51. The Congressional policy favoring a degree of latitude in the business determinations of the members of a steamship conference is evident in the language of section 15. It requires that conference agreements

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be approved unless there is a positive finding that a proposed agreement violates one of the standards set forth in the statute.

In *Pacific Coast European Conference Agreement*, 3 U. S. M. C. 11 (1948), cited with approval in *Oranje Line v. Anchor Line, Ltd.*, 5 F. M. B. 714 (1959), the Federal Maritime Board held, in effect, that neither a unanimity voting rule or any other voting rule is illegal, *per se* under section 15. The Board stated:

There are conferences which have the unanimous, two-thirds, three-fourths, or majority voting rules. No one of these can be disapproved as an organization procedure, but the lawfulness of any of them must be based upon evidence as to their workings and practice as introduced in a public hearing. Tests of lawfulness are found in actions or courses of conduct, not in organizational procedure.

It cannot be concluded, as contended herein, that the failure of the conference to increase commissions as requested by the agents has led to a competitive disadvantage of the conference lines relative to the airlines. It seems more

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logical to conclude that if a change to a majority rule resulted in an increase in commissions, the airlines might find it necessary to react to this new competition caused by the disparity in the commission rates and by pressure from the travel agents and start leap-frogging the steamship commission rate. In the *ATC Investigation*, the CAB said the one of the reasons for its approval of concerted action by the airlines was to avoid the "bidding up" of individual commission rates in order to secure exclusive agency arrangements. This successive increase in commissions would not be based on the value of the services of the agents but would result merely because of the competitive situation between the steamship lines and the airlines and the working of the conference system in both industries. Increases in fares would probably follow, to the prejudice of the traveling public and to the detriment of commerce. Lines which do not engage in the foreign commerce of the United States should not be permitted to vote on the level of commissions because the compensation

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paid to agents here is none of their concern.

There is a great deal more substance to the objection to the Unanimity Rule as it applies to the selection of agents for the eligible list. An important distinction exists between the operation of the Unanimity Rule in connection with the appointment of agents, on the one hand, and the determination as to the rate of commission, on the other. When the conference decides to place the name of an agent on the eligible list, each member line still has a free choice as to whether it will appoint that particular agent. Thus, the will of the majority, if a majority rule were followed, is not imposed upon that of the individual

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line, as a change in commission would be if the Unanimity Rule did not apply. The Unanimity Rule also provides an opportunity to any one line, or at least any one member of the Control Committee, to blackball any applicant and exclude him from appointment by any line. The record establishes that one or two lines have, on occasion, prevented the approval of an applicant and thus prevented his appointment by the rest of the lines, all of whom favored his selection. It is therefore so detrimental to the interests of agents, or prospective agents, as to be detrimental to commerce and should be prohibited.

In this same connection, it is contended that some of the conference members whose vessels do not call at ports in the United States have an opportunity to veto the selection of an agent by virtue of the unanimity rule. The disapproval of the unanimity rule will guard against the evils that might result in this situation.

ASTA cites the C. A. B. decision in *IATA Traffic Conference Resolution*, 6 C. A. B. 639 (1946) for the proposition that the Unanimity Rule should be prohibited because it would enable a single carrier to "freeze" the rate. It is true that C. A. B. gave lip service to this argument—but only as regards voting on *changes* in the rate. It approved unanimity voting on the *establishment* of a rate and then required that all rate action contain a provision for their termination after a short period of time (in order to build

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a degree of flexibility into the IATA rate-making practice). Due to the latter requirement, it seems that nearly all rate decisions would be the *establishment* of a rate, rather than a change, and unanimity voting would apply.

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The conference agreements and rules require the unanimous approval of all member lines to amend the Unanimity Rule. This provision is brought into question in this proceeding, but only in connection with the propriety of the Unanimity Rule as applied to travel agency matters. The effect of the Unanimity Rule on the handling of travel agency matters is discussed above, and certain reforms in this conference voting rule will be required. However, the problem of requiring unanimous action to change the unanimity rule itself, standing alone, is beyond the scope of this investigation. The record in this proceeding does not establish that this aspect of the conference arrangement has resulted in any specific violations of the statute, insofar as agency matters are concerned, therefore the impact of this rule cannot be assumed to be any different in connection with handling of agency matters than any other matters, or that it would have a different result in the operations of this conference than it would in the operations of any other conference. If inquiry is to be made into this general question it would be more appropriate in a rule-making proceeding of general applicability.

F. Secrecy of Conference Action: Voting

On page 40 the practices of the conference in regard to recording and reporting their proceedings to the Commission are described. The record in this proceeding demonstrates that the failure of the conference to take and record the votes of its members, to keep detailed minutes of proceedings, and report them to the Commission materially interferes with the regulatory surveillance which the Commission is required to maintain over conference activities.

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The failure of the conference to disclose to agents its stand-
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ards for the determination of various issues directly affecting the agents and the basis of its decisions has led to such prejudice as to be contrary to the public interest and a detriment to foreign commerce.

In its brief ASTA refers to the pertinent statement of the Board in *Investigation of Practices of Ocean Freight Forwarders*, Dockets 765 and 831, June 29, 1961; page 37 of mimeo. decision:

There can be nothing private or confidential in the operations of a carrier engaged in interstate commerce, *U. S. Atlantic and Gulf/Puerto Rico Rate Increase*, 5 F. M. B. 426 (1958), and the same is true with regard to any industry operating in the public calling and regulated by Congress in the public interest, to the extent that the operations are made subject to regulation. *Smith v. I. C. Co.*, 245 U. S. 33.

For these reasons, the conference should be required to take and record the votes of the members, keep detailed minutes of all matters coming before the meeting, retain these records for a reasonable time, and provide copies to the Commission in accordance with its regulations. The requirements for apprising agents of various conference rules and actions are discussed elsewhere.

G. Diversion of Passengers to Air Carriers

On pages 28, 29, and 30 of its Opening Brief, ASTA makes the disturbing admission that travel agents who have undertaken the duty to serve steamship lines as their sales representatives can and do, on occasion, discourage trav-

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elers from patronizing these lines and urge them to travel by air instead. The record establishes beyond doubt that this practice has occurred. The ASTA brief advances this fact in support of the argument that the commissions should be increased to 10% in order to prevent this diversion to air carriers.

The travel agents and their principals (the shiplines) have, or certainly should have, a mutual interest in the promotion of travel by sea. Over 75% of all steamship passage is sold by travel agents. Thus the lines have, to a considerable extent, placed their economic welfare in the hands of the appointed agents. In turn, the welfare of the agents depends upon the economic health of the lines, except

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to the extent that the agents profit by other revenues such as sales of airplane passage. This balance of interdependence has been disturbed by virtue of the latter source of revenue, and this has resulted in unnatural competition for the shiplines. Worse, it has admittedly frustrated a free and objective choice by travelers of the mode of travel they will use.

Agents divert the traveler to air because of the ease of the booking or the higher commission, not in order to serve the best interest of the traveler. This is not in the best interest of commerce and is adverse to the public interest. Agents are under a duty to further the principal's interests even at the expense of their own in matters connected with the Agency. *Restatement of the Law of Agency* (2nd), Secs. 393 and 387. However, the statutes do not give the Commission jurisdiction over travel agents. Probably for this reason, Hearing Counsel, who recognize that this practice places the ocean carriers in an "inferior competitive

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position", state that "the cure for the water carriers' disadvantage is not so clear." The key to the cure lies on the conference agreement itself, over which the Commission has unquestionable jurisdiction. It would be possible for the rules adopted thereunder to be amended so as to explicitly prohibit such diversion of customers by the agencies and to make this a ground for cancellation of the eligibility of an agency. It is not appropriate for the Commission to require this change, since it is not the agreement itself that has caused the evil. The matter is therefore left to the managerial discretion of the conference and the member lines.

IV ULTIMATE CONCLUSIONS

Insofar as they relate to travel agents, Agreement No. 7840 of APC and Agreement No. 120 of TAPC are not found, in principle, to be unjustly discriminatory or unfair as between the parties named in section 15 of the Act, to operate to the detriment of the commerce of the United

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States, to be contrary to the public interest, nor to be in violation of the Shipping Act, 1916, provided they are modified in accordance with this decision. The agreements therefore should not be disapproved or cancelled insofar as they relate to travel agents.

For the reasons stated herein, certain provisions of the Agreements and the rules and practices thereunder, relating to travel agents, are found to operate to the detriment of commerce and are contrary to the public interest. It would be inappropriate, solely on the basis of the record herein, to attempt to draft modifications to the conference Agree-

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ment and Rules to implement the conclusions reached in this decision. The conference must be permitted to agree upon the language of these modifications, initially, guided by these conclusions on the various issues. These modifications shall then be submitted for the review and approval of the Commission. It can be anticipated that the Commission will find it desirable to obtain the views and comments of all interested parties relative to the proposed modifications before approving them. This practice was found to be desirable by the CAB in its conduct of the similar investigation into the airline conference agreements and practices relating to travel agents.¹²

To this end, this proceeding should remain open until the further order of the Commission. An order should be entered at this time requiring respondents to file with the Commission, within sixty days, proposed modifications to Agreement No. 120 and Agreement No. 7840 in accordance with the conclusions reached herein, and holding this proceeding open pending further order of the Commission.

/s/ E. ROBERT SEAVER
E. Robert Seaver
Hearing Examiner

Washington, D. C.
January 24, 1963

¹² See the following Orders issued by the CAB in the course of the Docket No. 8300 investigation: Order No. E-14012 of June 10, 1959; E-14647 of November 12, 1959; E-14924 of February 15, 1960; E-15977 of November 1, 1960; E-16964 of March 1, 1961.

Commission's Opinion and Order
FEDERAL MARITIME COMMISSION

No. 873

INVESTIGATION OF PASSENGER STEAMSHIP
CONFERENCES REGARDING TRAVEL AGENTS

1. Agreements No. 7840 and No. 120 of Atlantic Passenger Steamship Conference and Trans-Atlantic Passenger Steamship Conference respectively, and the rules adopted thereunder, as they relate to travel agents, found to violate section 15 of the Shipping Act, 1916, in certain respects and ordered modified in accordance with this decision which requires that the conferences:
 - a. Establish, publish and apply definite, objective standards for screening of applicants who apply for placement on the conference list of travel agents eligible for appointment by member lines, for the approval or disapproval of change of officers or sales or transfers of agencies, for cancellations of agencies from the list of eligibles, and for the imposition of penalties for violation of the conference rules.
 - b. Provide notice of conference rules and practices to agents and prospective agents, and complete reasons for conference action in excluding applicants from the eligible list, refusing to approve a change of officers or the sale or transfer of the agency, cancellation of eligibility, and the imposition of fines and penalties against agencies.

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- c. Afford a reasonable opportunity for hearing to agents before taking action to disapprove a change of officers or the sale or transfer of an agency, to cancel the eligibility of an agency, or to assess a fine or penalty against an agency.
 - d. Discontinue the practice of (1) establishing quotas for the maximum number of agents that will be placed on the eligible lists, (2) requiring that an applicant be sponsored by a member line, (3) denying eligibility to applicants whose offices are south of Fulton Street in Manhattan or those who are in department stores or automobile clubs.
 - e. Submit for Commission review the conference rule prohibiting the appointment of foreign freight forwarders as travel agents.
 - f. Discontinue the prohibition against the sale by agents of transportation on nonconference lines.
 - g. Discontinue the unanimity rule in voting on applicants for the eligible lists, change of officers or sales or transfer of agencies, and level of agents' commissions.
 - h. Discontinue certain practices of secrecy surrounding conference rules and activities regarding travel agents, and provide the Commission with detailed minutes of all matters coming before their meetings, which include the votes of the members on these matters.
2. The Commission has jurisdiction over the levels of commissions paid to travel agents. However, the record in this proceeding does not contain a sufficient showing

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that the present level is so low as to be detrimental to the commerce of the United States or otherwise unlawful under section 15 of the Act.

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Edward R. Neaher, Joseph Mayper and Carl S. Rowe for Trans-Atlantic Passenger Steamship Conference and Atlantic Passenger Steamship Conference, respondents.

Robert J. Sisk, Richard A. Givens, and Rocco C. Siciliano for American Society of Travel Agents, and *James F. McManus pro se* and for *Mary R. McManus*, doing business as Levittown Travel Center, interveners.

Wm. Jarrell Smith, Jr., and Robert J. Blackwell, Hearing Counsel.

E. Robert Seaver, Hearing Examiner.

REPORT

BY THE COMMISSION (John Harllee, Chairman; Thos. E. Stakem, Vice Chairman; Ashton C. Barrett, Commissioner):

This proceeding is a general investigation of the agreements and practices of two interrelated passenger steamship conferences as those practices relate to travel agents. It is the first general investigation to be held by the Commission or its predecessors in this area, and all of the passenger lines engaged in the trans-Atlantic trade and their travel agents are directly involved.

This proceeding was instituted as a result of a petition filed by the American Society of Travel Agents (ASTA). The purpose of the investigation is to determine whether

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Agreement 120, the organic agreement of the Trans-Atlantic Passenger Steamship Conference (TAPC), and Agreement 7840, the organic agreement of the Atlantic Passenger Steamship Conference (APC), should be disapproved, cancelled or modified, insofar as they relate to travel agents, in accordance with section 15 of the Shipping Act, 1916 (46 U. S. C. 814).

Extensive hearings were held in New York. The parties represented at the hearings included: The two conferences and their member lines, three of which are American flag and twenty-three foreign flag, as respondents; ASTA and certain individual travel agencies, as interveners; and Hearing Counsel. ASTA, Hearing Counsel and respondents filed briefs. The Examiner issued an Initial Decision based upon the evidence adduced at the hearings. Hearing Counsel, ASTA and respondents filed exceptions thereto and we heard oral argument.

FACTS**A. The Conferences**

The two conferences whose activities are the subject of this investigation are the Trans-Atlantic Passenger Steamship Conference (TAPC) operating pursuant to Agreement

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No. 120 and the Atlantic Passenger Steamship Conference (APC) operating pursuant to Agreement No. 7840.

The TAPC and its predecessors have been in existence for at least 80 years. The TAPC consists of two American-flag carriers, American Export Lines and United States Lines, and 23 foreign-flag carriers. Agreement No. 120 was first approved February 12, 1929. It contains compre-

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hensive provisions relating to the selection and control of travel agents, and requires that all conference action be unanimous (Unanimity Rule). It provides for a permanent conference committee known as the Committee on Control of Sub-Agencies¹ (Control Committee), which is vested with broad powers relating to agents in so-called "Metropolitan List Territories." The Control Committee decides which applicants will be placed upon the lists of "eligible" agents in the specified metropolitan areas; decides which agents holding appointment in those areas should be retained or cancelled; and obtains from the lines or agents such information as the committee requires to carry out its functions. Agreement No. 120 governs all of the issues raised by the parties in this proceeding except the level of commissions.

The APC and its predecessors have been in operation for about the same length of time as the TAPC. The APC presently operates pursuant to Agreement No. 7840, approved by the Commission on August 29, 1946. The voting membership of the APC is the same as the TAPC except that it includes one additional American-flag line, American President Lines, and does not include Spanish Line. APC is domiciled in Folkstone, England, and holds its meetings in Britain or on the Continent. Its records are located in Folkstone. APC establishes uniform fares and the maximum levels of commission payable to agents by the member lines. Like TAPC, APC operates pursuant to a unanimity rule. It has no function with respect to the appointment, dismissal or control of the agents in the

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United States, these matters being within the jurisdiction

¹ Travel agents are referred to in both conference agreements as sub-agents. They will be referred to hereinafter as travel agents or agents.

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of the TAPC. TAPC has no jurisdiction over the level of commissions to be paid agents but its views are sometimes requested by APC and sometimes treated as confidential. TAPC may be thought of as the agency-regulating arm of APC. [APC does not take or record votes, and only a bobtailed report of final action taken is filed with the Commission.] Neither the agenda of the meeting, a report of the discussion of the members, nor any reference to proposals discussed but not adopted is filed with the Commission. [In general there appears to be a deliberate conference policy to avoid government review of conference action.] One of the lines referred in its correspondence to the conference to "an understanding not to have too much official correspondence," and several references are made in the transcript of hearings to the statements by leading representatives of conference carriers that no minutes could be taken or published because of the existence of the United States Antitrust Laws.

B. The Travel Agents.

There are about 4000 travel agents in the United States who represent the carriers of the two conferences. Approximately one-third of these are members of ASTA. There are some 575 agencies in New York alone. [In 1960, the 4000 or so travel agents were responsible for 80 percent of all trans-Atlantic steamship passenger bookings made in the United States, exclusive of tours.] The conferences and their member lines acknowledge that the travel agents constitute their principal sales force.

The conference action relative to the appointment and control of travel agents is confined, with the exception of agencies located in department stores and automobile clubs, which require conference approval for appointment, to six

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so-called "Metropolitan Eligible List Territories." The Metropolitan List Territories are those including and immediately surrounding New York, Boston, Philadelphia, Chicago, Los Angeles, and San Francisco.

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The agencies located in these Metropolitan List Territories are generally small in size, about 70 percent having five or fewer employees and half having yearly net earnings under \$5,000. There are basically two types of agents—"wholesale" agents, who arrange, sponsor and conduct package tours, and "retail" agents, who sell the packaged product. In addition to the 7 percent commission the retail agent receives from the TAPC, for the ocean passage, he is paid an additional 3 percent commission by the wholesaler on those items in the package other than steamship fare. Under a somewhat similar arrangement of the International Air Transportation Association, an association of airlines in foreign commerce, the airlines pay a 10 percent commission on the air transport segment of tours. The wholesaler does not receive any net remuneration from the shipline or airline in these circumstances. His revenue comes from commissions on the hotel and insurance facets of the tours. A large majority of agents in Metropolitan List Territories handle retail business exclusively. The agents who act as "wholesalers" may also act as "retailers." The great majority engage exclusively in the travel business and practically all agents represent airlines as well as steamship lines.

*C. Specific Practices of TAPC Affecting Travel Agents.**1. Appointment.*

Under the TAPC agreement the Control Committee is responsible for the screening of agents in the Metropolitan

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List Territories, and exercises final authority over all matters relating to the screening of agents including determination as to the placement of an applicant on the "Eligible List." Under the terms of the conference agreement the member lines may appoint agents only from those appearing on the Eligible List for the particular metropolitan territory. The Control Committee has eight members who each serve for a term of two years. Two members are chosen to represent the lines whose vessels are registered in countries in each of the following areas:

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The North Atlantic Group which includes Great Britain, the Scandanavian countries, and Canada;

The Mediterranean Group which includes countries bordering on the Mediterranean, Adriatic and Black Seas (including Mediterranean France);

The United States Group which includes only the United States;

The Continental Group which includes any country on the Continent of Europe not classified above.

The members in each group are selected by the unanimous vote of the lines within the group. The Committee meets informally about every six weeks. Votes are not ordinarily taken and if a vote is taken it is not recorded. No minutes of meetings are kept. All actions of the Committee must have the unanimous approval of the members.

In the Metropolitan List Territories other than New York, local subcommittees of the Control Committee preliminarily determine the qualifications of applicants and forward their recommendations for agency appointments to the Control Committee. Normally the Control Commit-

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tee accepts these recommendations. The procedures of the several local committees are not uniform, even as to the Unanimity Rule, which under the conference rules they are all supposed to follow. However, votes are taken and these are forwarded to the Control Committee. If a local committee refuses to recommend an applicant, the application itself is not forwarded to the Control Committee. Thus, in practical effect each local subcommittee exercises considerable power over an applicant in the Metropolitan List Territory under its jurisdiction.

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a. The Sponsorship Rule.

An applicant for appointment as a travel agent usually communicates with the secretary of the conference, who, in turn, sends the information relative to the applicant to all the member lines. The secretary places the name of the applicant on the agenda of the Control Committee only if one or more of the member lines show an interest in the particular applicant. If no member line shows any interest in the applicant, action on his application is "deferred," and the applicant, of course, may not be appointed an agent by any of the member lines. This requirement of a show of interest by a member line is referred to as the "sponsorship" practice (Sponsorship Rule). Although lines individually often interview prospective agents by the use of questionnaires or of "travelers," who are representatives of the various member lines and who personally visit applicants at their places of business, the conference as a body has no organized system for the uniform gathering of information concerning each applicant. It is left to the "sponsoring" line to bring forward such favorable information as the line deems necessary to secure favorable action on the applicant. The conference has never officially informed appli-

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cants of the Sponsorship Rule, some applicants learning of it through the lines, others through ASTA.

Once "sponsored" the applicant is then given consideration by the Control Committee. If the applicant is not voted favorably upon by the Control Committee, he is transferred to a "Preferred List," and his application is considered at subsequent meetings. No application is denied outright, but applicants must often spend several years on the Preferred List before securing the unanimous vote of the Control Committee necessary for placement on the Eligible List. Although the Control Committee supposedly determines whether or not to place applicants upon the Eligible List by the consideration of such factors as potential ability to produce business, financial stability, business character, location of business, and national origin of the applicant in relation to national origin of the members of the community in which the applicant's business is located, these factors are not spelled out in the conference agreement, rules, or elsewhere. Applicants are not officially informed by the conference as to the standards upon which they will be judged; however, in some instances they may obtain some idea of the standards employed by the members of the Control Committee from conversations with representatives of the lines or from the information requested on the ques-

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tionnaires that some of the lines provide to some applicants. The Commission has never been informed of these standards. The record shows that the standards have not been applied uniformly, and agents often have had to wait long periods of time before learning of the standards.

Although anyone can book passage on common carriers, including agents not on the Eligible List, the lines are prohibited from appointing agents who have not been ap-

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proved unanimously for the Eligible List by the Control Committee and commissions for bookings made may not be paid by the member lines to anyone but appointed agents. While under the terms of the conference agreement commissions may be paid retroactively from appointment for one year's bookings, retroactive payment is not mandatory and is left to the discretion of the individual line. Unappointed agents find it difficult to make bookings as, lacking prestige, they are not always able to obtain vessel space, nor do they have ready ticket supplies. The record indicates that these factors coupled with uncertainty of commissions tend to cause unappointed agents where possible to divert passengers from steamship travel to air travel.

b. The Quota System.

The TAPC agreement provides that the number of agencies shall be limited, with due regard being given to the requirements of the traffic in various localities. The agreement places the responsibility for the establishment of these limitations with the Control Committee, and it has established quotas limiting the number of agents that can be placed upon the Eligible List for each Metropolitan List Territory. The effect of this provision is to prevent sponsored and otherwise eligible agents from being placed on the lists. Although agents are merely "deferred" to the so-called Preferred List rather than denied placement on the Eligible List, the deferral for extended periods is tantamount to a denial.

c. The Unanimity Rule.

The requirement of a unanimous vote by the Control Committee has on many occasions prevented the placement

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of applicants on the "Eligible List." The record shows that

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as late as 1959, the local subcommittee for Philadelphia declined to recommend an appointment because of a single "nay" vote, despite 8 votes cast in favor of the applicant. Similarly the Los Angeles local subcommittee in 1951 declined 4 applications, of which 3 were approved by majorities of 8 to 2, and 1 was approved by a majority of 9 to 1. These actions caused the retiring chairman of the Los Angeles local subcommittee to record in the minutes of that committee:

"the one or two negative votes, resulting in the pending applications being declined under the . . . 'unanimous agreement' clause, is extremely detrimental to the best interests of the majority lines. Further that such negative votes may be cast 'on direct instructions' from principals or are actually mischievous rather than co-operative in intent. It is also obvious that the committee's negative action in these cases is being used to advantage to the fullest possible extent by the Trans-Atlantic air services."

Although all final decisional authority for placement on the Eligible List rests with the Control Committee, and the local committees can merely recommend, it should be borne in mind, as noted above, that when local subcommittees reject applicants, the applications ordinarily do not even come to the attention of the Control Committee.

d. *Other TAPC Selection Practices.*

Conference rules forbid the appointment of agents who are also freight forwarders, or whose places of business are in department stores and automobile clubs. In the

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Metropolitan List Territory of New York appointment is prohibited to agencies located in the district south of Fulton Street in Manhattan (Fulton Street Rule). The record shows that these rules have not been uniformly applied. The rules regarding freight forwarders (Freight Forwarder Rule) and agencies located in department stores (Department Store Rule) are grounded on the contention that the agent's concentration on steamship bookings would be lessened by the agent's other activities. Under its authority to waive the rule, the Control Committee has ap-

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proved about 100 agencies in department stores and 75 in automobile clubs. Also the Fulton Street Rule may be waived in exceptional cases. There has been no uniformity of standard, however, in handling any of these supposedly exceptional cases.

*2. Control of Agencies After Appointment.**a. The Tying Rule.*

Conference rules prohibit appointed agents from selling transportation on nonconference lines. [All passenger lines operating in the trans-Atlantic trade are members of TAPC. TAPC members carry 99 percent of the passengers moving by water in this trade. The only lines affected by the rule prohibiting sale of tickets via nonconference lines are those freighter services which carry a limited number of passengers on their cargo vessels. Such carriers, like the TAPC lines, must rely on travel agents for the sale of ocean transportation.] A main economic threat to the conference lines is that of the air carriers, but the Tying Rule does not prohibit the agents from booking trans-Atlantic travel via air carriers.

*Commission's Opinion and Order**b. Sale or Transfer of Agency or Change in Officers or in Address or Name.*

The official conference rules require only that approval of the appointing lines be obtained prior to the transfer, sale, or change of name or address of an agency. However, in practice, the Control Committee has exercised authority over these transactions. Again precise standards have not been adopted, and the vague standards which have been utilized have not been uniformly applied. At one time, at least, it seems to have been a matter of conference policy to deny sale or transfer without going through termination and reappointment, but this is uncertain. The record contains several examples of cases in which a majority of lines were unable to permit a sale or change in personnel either because of the vague standards or the existence of the Unanimity Rule. Under the Unanimity Rule it is possible for a member of the Control Committee representing a line which has not appointed the agency in question to block a sale or transfer.

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c. Fines and Penalties.

Fines and penalties, called "liquidated damages" by the conference, are levied for breaches of conference rules by a Special Committee, the membership of which is the same as that of the Control Committee. No formal procedure has been adopted for determination of the truth of alleged violations. While it appears that the accused agent is afforded the right to tell his side of the story, usually in writing, it does not appear from the record that the agent is afforded any kind of hearing, or any reconsideration of or appeal from the decision of the Control Committee. During the period from 1952 through 1960 the Special Com-

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mittee assessed penalties against some 28 agents totaling \$3,500.

d. Bonding and Cancelled Voyages.

TAPC requires that agents who are appointed in Metropolitan List Territories be covered by surety bonds in amounts based on the expected sales of the agent. A single bond covers one agent for the benefit of all appointing lines. The premium of the bond is paid by the conference, but the agents pay annual fees in amounts which vary in different cities. These fees help defray premium and other expenses of the conference in administering its agency program. The conference lines are not required to be bonded, and on at least one occasion a member line was unable to pay a commission because of financial difficulties. On other occasions, when sailings were cancelled after bookings had been made, commissions were not paid to the agents even though they had fully performed the service of booking the passage and had nothing to do with the cancellation of the sailings. There appears to be no conference regulation relating to the payment of commissions on cancelled voyages. However, some lines pay half commission, others full commission on cancelled voyages.

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e. Tenure and Cancellation of Eligibility.

The conference rules provide that either an agent or its appointing line may terminate an agency at any time. In addition, the Control Committee may remove names from the Eligible List if it finds a breach of conference rules by the agent, unethical business standards, an inability on the part of the agent adequately to create and stimulate the sale of transportation, or failure of the agent to effect the

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sale of a sufficient number of bookings. In the years 1957 through 1960, 19 agencies were terminated due to an alleged insufficiency in the number of bookings produced by the agency and 17 for other reasons. Four of the latter were subsequently reinstated.

No precise standards relative to what might constitute a sufficient number of bookings by an agent have been set up. The local subcommittees have established minimum booking requirements for approved agents in their respective jurisdictions, but the standards were not considered absolute and the Control Committee has on occasion exercised an *ad hoc* judgment in the application of these requirements. In New York the minimum was set at 50 bookings per year within the city limits and 30 in the suburbs. Twenty-five was the minimum in Philadelphia and Chicago, 30 in San Francisco, 10 in Los Angeles, and no minimum was set for Boston. The agents were not informed of these standards. The Control Committee has exercised final authority in terminating the eligibility of agencies according to which, "Each case was handled on its own merits depending on the circumstances surrounding the case." Agents have not been afforded a hearing or a right to have the action of the Control Committee reviewed.

The Standards of performance and other grounds for termination consist solely of the general norms quoted above.

D. Practices of APC with Respect to Level of Agents' Commissions.

As noted above, the TAPC exercises authority over all agency relationships and practices at issue in this proceeding except the level of agents' commissions which is the

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province of the APC. Under the APC agreement unanimous approval is required by the membership of the APC before the level of commissions paid to agents may be raised. Thus, an increase in the level of commissions requires the affirmative vote of the six member lines which serve only Canadian ports. Meetings of the APC are conducted on an informal basis and a vote of the members is neither taken, recorded, nor filed with the Commission. The conference records show that from about October 1950, all lines have shown a willingness in principle at least to increase the level of agency commissions. However, in 1950 and 1951 subcommittees of the APC were unable, because of the conference's Unanimity Rule, to recommend a proposed increase in commissions, although the majority was prepared to increase the commission from 6 to 7½ percent on "all classes, all seasons." The 1951 subcommittee stated that "while there was a strong majority in favor of applying a 7½ percent commission to all classes throughout the year, it was not possible to reach unanimous agreement," and "it was, therefore, suggested that the matter be deferred for consideration at the Statutory Meeting in March 1952." The subcommittee did not have the power to take final action, but its function was to recommend action to the principals.

In 1951 the conference increased the commission to 7½ percent, except on passage booked during the high volume summer season where a 6 percent commission remained in effect. Proposals to increase commission were taken up and action was deferred at meetings in 1952 and 1953. A 1952 subcommittee noted that "unanimity could not be reached on a proposal to extend the off-season commission basis (7½%) to bookings for seasonal sailings." The ques-

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tion was taken up again in 1956, when the present commission of 7 percent on all bookings was established. Since that time, representatives of travel agents have sought increases in the commission levels but have been told that commission levels have not been raised since 1956 because the APC has had difficulty in achieving unanimity.

Evidence adduced by the conference demonstrates that differences between members over agents' commissions are

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usually eliminated or compromised, the minority giving way eventually to the majority. Conference witnesses testified that neither a single member nor a small minority has ever vetoed proposed conference action on commissions. It is impossible to tell from the conference's sketchy minutes if this is true. However, it is certain that under the present Unanimity Rule a single member could veto an action to increase agents' commissions even though the action was desired by all the other members. The executives of the American flag lines which are members of APC, and who testified at the hearing, stated that because the Americans were a minority in the conference, the Unanimity Rule was necessary to protect their interests. The record indicates, however, that the American lines have often been in the vanguard for commission increases and as near as can be determined have never blocked proposed increases. Under the conference agreements the decision to change the Unanimity Rule to a majority rule or some other rule that would require the consent of less than the full membership, would itself require the unanimous consent of all conference members.

E. Diversion of Passengers to Air Carriers.

At present both air and ocean carriers pay 7 percent commissions on regular point-to-point bookings, and 10 percent

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on their respective portions of so-called foreign inclusive tours. It takes approximately three or four times as much of an agent's time to sell sea as compared with air space, and several years of experience are required to produce a really competent steamship passage salesman. Because of this, appointed agents tend to push air rather than sea travel. The record indicates that one of the primary factors in determining the level of commission has been the competition of air travel.

The Examiner's Decision

The parties agree that the Initial Decision of the Examiner correctly disposes of most of the issues raised in this proceeding. We summarize below those portions of the decision to which no exception is taken:

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After a brief discussion in which he approved of the exercise of some conference control over travel agents and noted that ASTA was also in favor of such control (Initial Decision, 49-50), the Examiner adopted the following statement of Hearing Counsel as a criteria for determining what constitutes a violation of section 15 of the Shipping Act, 1916:

"Any provisions of TAPC Agreement No. 120 or APC Agreement No. 7840, or any regulations or rules promulgated thereunder, which prevent travel agencies in the United States from rendering complete and effective service both to passengers and to ocean carriers operate to the detriment of the commerce of the United States. All conference-imposed restraints which prevent the travel agent from properly performing his function of selling ocean transportation, for which no

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reasonable justification exists, should be eliminated by the Commission's disapproval, cancellation, or modification of the subject agreements . . ." (Initial Decision, p. 52.)

In addition to the above, the Examiner further concluded that, "unreasonable restraints against qualified persons who seek to become travel agents would also be detrimental to commerce."

The Examiner in light of these criteria then considered the areas of interaction between the conferences and the travel agents, discussed above in the factual statement, and reached the following conclusions:

A. TAPC Practices.

1. Appointment.

The conference (TAPC) has failed to adopt, publish, and promptly and consistently apply uniform standards of background and qualifications in its selection of applicants for placement on the list of eligible agents in Metropolitan List Territories. This failure is detrimental to commerce and contrary to the public interest, within the meaning of section 15, because it detracts from the ability and the willingness of the corps of agents, or potential agents, to foster and sell steamship travel. Thus, the conference must adopt, publish and apply a set of uniform, objective, standards in the screening of applicants that are sufficiently precise, and

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well defined to give adequate notice to applicants of the requirements. No other standards should or may be employed. The standards of eligibility must be published and made available to all applicants in order to give meaning and effect thereto and every applicant who meets them must

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be approved. Similarly, conference action on each application must be taken promptly and the applicant notified promptly of the decision and the reasons for whatever action is taken. These reasons should not be stated merely in general terms but must relate specifically to the adopted standards of eligibility.

Respondents have explicitly consented to revise their agreements so as to provide a set of uniform objective standards for screening applicants in the Metropolitan List Territories, sufficiently precise and well defined to give applicants adequate notice of the requirements they must meet. Respondents have further agreed to the publication of such standards and to prompt notification of the action taken with respect to all applicants for appointment as agents.

a. *The Sponsorship Rule.*

The Sponsorship Rule must be discontinued as it has resulted in the exclusion from the Eligible Lists of qualified agents, to the detriment of commerce. Respondents have agreed to remove the Sponsorship Rule.

b. *The Quota System.*

The Quota System must also be discontinued for the same reason that requires discontinuance of the Sponsorship Rule. The number of agents already on the Eligible List has no bearing on the question of the qualifications of a new applicant. If an individual line has all the agents it feels that it requires, it is of course not required to appoint an agent newly placed by the Control Committee on the Eligible List. Respondents have agreed to remove the Quota System.

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c. Other TAPC Selection Practices.

The Fulton Street Rule and the Department Store and Automobile Club Rules must be abolished as they have resulted in the arbitrary exclusion of agents to the detriment of commerce. The Freight Forwarder Rule must be submitted to the Commission for approval. The Commission can then consider the proposal under its customary procedures and after obtaining the views of all interested parties make a determination as to its validity under section 15. The respondents have agreed to abolish the Fulton Street Rule, the Department Store and Automobile Club Rule, and they have further agreed to file the Freight Forwarder Rule with the Commission.

*2. Control of Agencies After Appointment.**a. Sale or Transfer of Agency or Change in Officers or in Address or Name.*

The same administrative fairness must be afforded when the conference considers an application for approval of the sale, transfer, or change of the officers of an agency that is required in reference to the consideration of original applicants and for the same reasons. The conference rules must provide reasonable standards in regard to the consideration of sales and transfers and changes of officers, including adequate notice of the standards to applicants, and an opportunity for the agent to be heard. The rules must further provide for prompt action in accordance with the standards adopted and for prompt notice to the agent of the action taken together with the reasons therefor. A system of arbitration for review of conference action will not be required as, in the case of the screening of applicants,

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relief from arbitrary conference action or other violations by the conference will be afforded upon complaint filed with the Commission.

The respondents have agreed to the adoption and application of reasonable standards regarding the consideration of sales and transfers, and of changes in name, address or officers in appointed agencies, including procedures for notice thereof to applicants, for opportunity to be heard and for prompt action on such requests.

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b. Fines and Penalties.

The conference must adopt and apply definite standards for the assessment of liquidated damages, providing for adequate notice thereof and for opportunity of accused agents to be heard, and for prompt report to the Commission of any liquidated damages assessed. Respondents have agreed to adopt and apply definite standards for the assessment of liquidated damages, providing for adequate notice thereof and for opportunity for accused agents to be heard, and for prompt report to the Commission of any damages assessed.

c. Bonding.

Bonding of carriers against loss of commissions caused by cancellation of voyages or line insolvency is not required. There is no evidence that suitable bonds are available; and instances of financial failure by the lines are very rare.

d. Tenure and Cancellation of Eligibility.

The conference must adopt and apply definite objective standards for cancellation of the eligibility of agents. The agent against whom allegations are made should be notified

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of the delinquencies with which he is charged and afforded an opportunity to confront those who made the charge and to adduce evidence to refute it, or in the alternative a reasonable time to correct the delinquency. The rules should require that the conference secretary must be informed in writing of all cancellations by member lines individually including the reasons therefor, records of which must be kept for a reasonable time in order to permit the Commission to assure itself that multiple cancellations of a particular agent are not being employed to circumvent the restrictions on conference action. Respondents have agreed to adopt, publish and apply a set of definite objective standards for the cancellation of the eligibility of agents, and to the provision of a reasonable time after warning to correct delinquencies or adduce evidence to refute them (except in the case of default by an agent or the cancellation of his surety bond).

B. Secrecy of Conference Action: Voting.

Because of the public interest in the operations of the conferences, they should be required to take and record the

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votes of the members, keep detailed minutes of all matters coming before meetings, retain records of meetings for a reasonable time and provide copies to the Commission. (Initial Decision 68-69.) Respondents have agreed to provide the Commission with full minutes of meetings indicating votes of the member lines.

DISCUSSION AND CONCLUSIONS.

We agree that the Examiner correctly disposed of the foregoing issues and we adopt his findings and conclusions.

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thereon as our own. We now turn to the issues raised on review by the parties in their exceptions to the Initial Decision.

1. *The Unanimity Rule as Applied to the Level of Agents' Commissions.*

The Examiner found that there was no showing that the Unanimity Rule as applied to agents' commissions had operated to the detriment of the commerce of the United States, and that there was no showing that a different voting rule would have allowed increased commissions.

In addition, he found that "there exists at present a substantial equilibrium between the commissions paid by the air and ocean carriers in this trade in that both pay 7 percent on regular point-to-point bookings." He said it could not be concluded that the failure of the conference to increase commissions as requested by the agents has led to a competitive disadvantage of the conference lines relative to the airlines. In the Examiner's view it was more logical to conclude that if the adoption of a majority rule resulted in an increase in commissions, the airlines might find it necessary to succumb to pressures from the travel agents and meet this new competition caused by the disparity in the commission rates by an increase of their own and thus, begin leap-frogging the steamship commission rate. The Examiner further conjectured that increases in fares would probably follow, to the prejudice of the traveling public and the detriment of commerce.

The record in this proceeding compels us to overrule the Examiner on these findings and conclusions. The record shows many instances in which the existence of the Unanimity Rule has blocked or at least delayed the fruition

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of a desire on the part of a majority of the lines to increase the levels of agents' commissions.²

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Respondents' arguments that the evidence refers only to the desires of a subcommittee which did not have the power to take final action is of doubtful value here. The determinations of the subcommittee may not have been of the kind dictating final action, but they are apparently conditions precedent to any conference action with respect to the level of commissions. Although it is true that the principals on occasion took actions other than those recommended by the subcommittee, these appear to have been in the nature of a watering down of actions favored by at least a majority of the lines. There is no indication from the record that the principals ever instituted any action regarding agents' commission levels without the concurrence of at least a majority of the subcommittee. The record, moreover, affirmatively shows that a lack of unanimity on several occasions prevented the subcommittee from even reporting the positions of the member lines to the principals.

The effect of the Unanimity Rule on the actions of the principals is of course rendered less clear because of the conference's failure to keep complete minutes of its meetings and to file them with the Commission. By its own admission, the conference purposely adopted this practice because of its concern over the American antitrust laws. It is undeniable, however, that under present conference procedures a single vote could block a proposal on commission matters even though the proposal was favored by an overwhelming majority of the member lines.

² See Section D of the Statement of Facts, *supra*.

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The record clearly shows that agents tend to push air travel rather than sea travel, mainly because it takes considerably longer to handle the details of sea travel. Time is money and the fact that the travel agent is able to sell more air than sea bookings in a given time period means, as ASTA correctly contends, that the effective commission rate of the steamship lines is lower than that of the airlines. Under this reasoning the "substantial equilibrium" found by the Examiner becomes superficial.

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The record contains some evidence of instances in which the diversion from sea to air passage has taken place against the best interest of the prospective passengers. However, this evidence related solely to the activities of agents who were not appointed by the conference lines. While it cannot be said these agents owed any duty to those lines, the fact remains that the diversion was not in the interests of the conference lines themselves. They have realized this and have attempted to solve the diversion problem by proposals to increase the level of agents' commissions. But the proposals have been blocked, delayed, or weakened because of the existence of the Unanimity Rule. Perhaps for economic reasons it is not feasible for the lines to raise commission levels at the present time. Nevertheless they should at least be allowed to increase commissions unhampered by the veto power inherent in the Unanimity Rule should they desire to do so.

There is no evidence in the record indicating that the airlines could or would increase their commission level, or would in fact need to do so, if the steamship lines voted by majority rule or some other rule requiring less than unanimity to raise the commission level on sea passage.

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We feel that the Unanimity Rule must be discontinued as it applies to the deliberations of the subcommittees and of the principals on the levels of agents' commissions. It is a regulation which prevents travel agents in the United States from rendering complete and effective service both to passengers and to ocean carriers. It has in some cases prevented the principals from even considering the question of commission levels and in others has defeated, or at least delayed or watered down the desires of the majority of the lines to raise commission levels, thus placing the steamship lines at a competitive disadvantage *vis-a-vis* the airlines. We think the Unanimity Rule plainly operates to the detriment of the commerce of the United States.

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2. *Jurisdiction Over the Level of Commissions Paid to Travel Agents.*

The Examiner who presided at the hearings excluded evidence relating to commission levels. The precise reason for this is not certain, but it appears he either believed the issue was not meant to be included in the investigation or that our jurisdiction does not extend to the level of agents' commissions. Subsequently, Examiner Seaver refused to rule on the jurisdictional question as he found there was not in any event sufficient evidence in the record to support a finding that the present level of commissions is so low as to be detrimental to the commerce of the United States. The parties to this proceeding, however, have specifically raised the question of our jurisdiction in their exceptions and replies to exceptions and it seems to us it would be useful from a regulatory standpoint to deal with the question.

To begin with it is clear that the order of investigation encompasses all activities in which the conferences engage

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affecting travel agents pursuant to the agreements here under consideration, and the fixing of the level of agents' commissions is one of such activities. We also think it is clear that we have jurisdiction over the level of agents' commissions set pursuant to conference agreements. We do not claim jurisdiction to set the specific level of compensation. Nor may we rule on the reasonableness of commissions fixed by individual carriers operating in our foreign commerce. What we are here concerned with is concerted activity which is permissible solely by virtue of an agreement approved under section 15. That section provides in relevant part:

The Commission shall by order, after notice and hearing, disapprove, cancel or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this Act, * * *

Thus, the jurisdiction here involved is that which directs us to disapprove, cancel or modify an agreement when the

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activities of the parties thereunder are incompatible with any of these standards. If we were to find that the respondents acting pursuant to their respective agreements had in concert fixed commission levels which were, for example, detrimental to the commerce of the United States or contrary to the public interest within the meaning of section 15, we would not only be authorized but would have the duty to withdraw or modify our approval of the agreements under that section.

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Respondents argue that our jurisdiction does not extend to the level of commissions because the commissions are paid to persons not subject to the Act. Without considering whether under any circumstances travel agents may be subject to the Act, respondents' argument misses the point. Our jurisdiction under section 15 is over agreements. Respondents' argument is necessarily grounded on the premise that the agreement regarding commission levels is between the agents and the carriers, which of course is not the fact. It is between common carriers by water all of whom are subject to the Act. Our jurisdiction extends to the entire agreement and all of the activities thereunder and it necessarily embraces the very act of fixing the level of agents' commissions. This conclusion is by no means novel. The Commission and its predecessors have repeatedly asserted jurisdiction under section 15 over the concerted establishment of the levels of brokerage paid to brokers by conferences operating pursuant to approved agreements. It has been repeatedly held, moreover, that the use of conference power to invade or affect third party interests is subject to regulation and control under section 15. *Agreements and Practices Pertaining to Brokerage*, 3 U. S. M. C. 170 (1949); *Pacific Coast European Conference (Payment of Brokerage)*, 4 F. M. B. 696 (1955); *Practices and Agreements of Common Carriers*, 7 F. M. C. 51 (1962); *Pacific Coast European Conference (Port Equalization Rule)*, Dkt. 1102, Report served July 17, 1963.

3. *The Present Levels of Agents' Commissions.*

ASTA requests that we hold that the present level of agents' commissions is so low as to be detrimental to the commerce of the United States. We are unable to make such a finding upon the present record. ASTA itself points out

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that before such a finding could be made, it would be necessary to determine that the present level of commissions is so low as to be "unremunerative, noncompensatory, or a burden on ASTA's other services" and hence detrimental to commerce. *Status of Carloaders and Unloaders*, 2 U. S. M. C. 761, 773.

Although there are many general statements in the record by travel agents about the difficulty of operating at the present commission levels, we agree with Hearing Counsel and the Examiner that the record in this proceeding does not support a finding that the level of commissions is unreasonably low. Hearing Counsel takes the position, with which the Examiner agreed, that the record "contains no direct and reliable evidence" upon which to disapprove the present level. This is, we think, of particular significance when it is borne in mind that (except for one minor exhibit mentioned below, Exhibit 106) the evidence upon which ASTA asks us to make a determination is that adduced by Hearing Counsel.

The record does show a decrease in the relative number of steamship bookings in relation to total bookings. But it is not established that the level of commissions is the primary reason for this. The problem of diversion of passengers from sea to air does exist, and it is a problem which the lines have attempted to solve by increasing the commission level. But it is undisputed that the enormous growth in air travel is largely attributable to factors unrelated to the steamship passenger industry, such as the increased seating capacity and speed provided by the new jet aircraft, and the introduction of many new foreign air carriers serving the United States.

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Exhibit 106, the only one which ASTA presses in its brief which it claims is not covered by the evidence introduced by Hearing Counsel, merely shows the rapid expansion of the airlines. It does not show that the agents are being forced out of business or losing money through the sale of sea bookings.

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We do not imply that we feel the present commission levels are necessarily proper. We hold only that on this record there is not a sufficient showing for us to declare that such levels are detrimental to the commerce of the United States or otherwise unlawful under section 15.

4. *The Unanimity Rule as It Applies to Selecting Agent Applicants for Metropolitan Eligible Lists*

The Examiner in his Initial Decision found that the Unanimity Rule as applied to the selection of agent applicants for the Eligible Lists in the Metropolitan List Territories was so detrimental to the interests of agents, or prospective agents, as to be detrimental to the commerce of the United States. He therefore concluded that rule should be discontinued. Respondents except to this conclusion.

We feel that the Examiner was correct. The Unanimity Rule has acted as an unreasonable restraint against qualified persons who seek to become travel agents. It has on several occasions prevented the Control Committee from even considering applicants for the Eligible Lists because of its use by local committees. It is capable of allowing one representative on the Control Committee to "blackball" any applicant and exclude him from appointment by the rest of the lines, though all of them may favor his selection. The rule has been denounced by a chairman of a local

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committee as "extremely detrimental to the best interests of the majority lines," and it has been used on at least one occasion in an attempt by lines to trade votes.

We hold that the Unanimity Rule must be discontinued in all actions by the conference, both by local subcommittees and the Control Committee, relating to the selection of agent applicants for the Eligible Lists. The rule, of course, is unnecessary to protect the freedom of individual lines in the actual appointment of their agents since the individual lines are free to appoint or not, as they see fit, any applicant placed on the Eligible Lists.

5. *The Unanimity Rule as It Applies to Voting on Agency Sales, Transfers or Changes of Officers or Locations.*

It is uncertain whether the Examiner meant to outlaw the Unanimity Rule as it applies to agency sales, transfers or changes of officers or locations. Hearing Counsel appear to

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feel that the Examiner's conclusions against the Unanimity Rule extended to these matters. In the interest of clarity we think a specific ruling should be made.

Our opinion is that the Unanimity Rule must be discontinued with respect to sales, transfers or changes of agency officers or locations. It has the same injurious effect in this area that it has in the selection of agents for the Eligible Lists. The record shows that the Unanimity Rule has been instrumental in allowing the veto of an agency transfer and makes it possible for a member of the Control Committee whose line has not appointed the agency in question to block a transfer or change in personnel. These consequences are unreasonable restraints which deprive travel agents of the ability freely to dispose of property rights

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and interfere unduly in the conduct of their business. In our view, the Unanimity Rule is contrary to the public interest. It also may possibly operate in some instances to the detriment of the commerce of the United States.

6. The Tying Rule.

The Examiner held that the so-called "Tying Rule," the conference procedure which prohibits appointed agents from selling transportation on non-conference lines, was unlawful as the record did not demonstrate that it was necessary to promote stability in rates or to combat destructive competition. Such tying arrangements generally run counter to antitrust principles. *United States v. General Motors Corporation*, 121 F. 2d 376 (7th Cir. 1941), *cert. den.* 314 U. S. 618, and *Vitagraph, Inc. v. Perelman*, 95 F. 2d 142 (3d Cir. 1936), *cert. den.* 305 U. S. 610.

Respondents object to the Examiner's conclusions, arguing that he applied strict antitrust principles in determining the validity of the Tying Rule. We think respondents have misconstrued the Examiner's conclusions. He applied traditional Shipping Act concepts in determining that the rule was invalid. Section 15 affords antitrust exemption to the parties to an anticompetitive agreement when that agreement is approved by the Commission. Particularly

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where the rights of third persons are affected, this exemption should not be granted unless the purposes and policies of the Shipping Act are thereby furthered. As the Examiner stated, "the Commission must make sure that the conduct it legalizes under section 15 does not invade the prohibitions of the antitrust laws any more than is necessary to serve the purposes of the Act." *Isbrandtsen Co. v. United States*, 211 F. 2d 51 (D. C. Cir. 1954), *cert. den.* 347 U. S. 990 (1954). The Examiner considered those factors

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which respondents argue are the proper ones, namely rate stability and destructive outside competition and he weighed the restriction imposed on agents by the Tying Rule against the possibilities were the rule abolished. He concluded, as we do, that no adverse consequences would flow from the abolition of the rule.

Respondents now admit that the Tying Rule is not necessary to protect the conference from outside competition but claim that it is necessary to maintain stability within the conference. They argue that without the Tying Rule the conference would disintegrate. The record, however, contains no evidence demonstrating that anything of that sort will happen. We note that respondent lines operate Caribbean cruises without the benefit of a tying rule and no adverse consequences have resulted.

7. Payment of Commissions on Strike-Cancelled Voyages.

The Examiner found that the conference, as a collective practice, refused the payment of commissions on voyages voluntarily cancelled. Finding such collective action to run counter to the interests of our foreign commerce, he ruled that the practice should be discontinued. ASTA supports this ruling and also urges that it be extended to cover the case of voyages cancelled because of a strike.

Respondents state, and we agree with them, that the Examiner erred in finding that the refusal to pay commissions on cancelled voyages was the result of conference action. There is nothing in the record which would indicate that collective action of the respondents dictates the pay-

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ment or nonpayment of commissions on cancelled voyages. There is testimony that some lines pay half commission,

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others full commission, on cancelled voyages. Hearing Counsel, in the course of the hearings, admitted that it "may be a fact" that there is no conference action with respect to commissions on cancelled voyages.

There is nothing in the conference agreement that can be disapproved with respect to these payments or nonpayments. If some lines refuse to pay the commissions, they may have reached individual understandings with agents covering the matter. But in any event, we cannot say on this record that the refusal is unlawful.

8. *Voting by Lines Which Do Not Engage in the Foreign Commerce of the United States on the Level of Commissions Paid to Their Agents in the United States.*

The Examiner found that "while unanimous approval of the membership of APC would be required to raise the rate of commission, at least seven of the members engage in little or no service to or from the United States." His difficulty with the voting by lines serving the contiguous Canadian trade was their power to exercise, through the Unanimity Rule, a veto over matters affecting travel agents in the United States. He ruled that "lines which do not engage in the foreign commerce of the United States should not be permitted to vote on the level of commissions because the compensation paid to agents here is none of their concern."

Respondents contend that the Examiner erred in this ruling if it was thereby intended to exclude lines calling only at Canadian ports from voting on levels of commissions paid to their agents in the United States. Both ASTA

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and Hearing Counsel state that they have no objection to such lines voting on commission levels if the Unanimity Rule is discontinued. Since we have ordered the rule eliminated as it applies to the level of commissions, the question reduces itself to one of whether the lines serving only Canadian ports should be denied any voice respecting the level of commissions paid to their agents in the United States.

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It is sufficient for our purposes here merely to say that, with the Unanimity Rule having been eliminated, we have no objection to such lines having some voice in commission matters, and that proposed solutions to this problem may be submitted with the amended agreements. It may be noted, also, that at least one line serving only Canadian ports has indicated that it does not desire to vote on commission levels for agents in the United States.

Our ultimate conclusion is that Agreement No. 7840 of APC and Agreement No. 120 of TAPC and the rules adopted thereunder, insofar as they relate to travel agents, are contrary to section 15 of the Shipping Act in the respects and for the reasons noted above and must be modified in accordance with this decision.

Respondents shall within 60 days submit to us for review and approval proposed modifications of the agreements and rules consistent with this decision, as per our order attached. The views and comments of interested parties will be invited upon the specific language of the proposed modifications and the proceeding will be held open pending further order of the Commission.

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Commissioner Patterson concurring and dissenting:

Based on the record before me in this proceeding, my conclusions are as follows:

First, I concur in the result reached in the preceding report as to:

- (1) The majority's concurrence with the initial decision of the Examiner as summarized in its report to show those portions as to which no exception is taken. It is understood that the respondents have agreed to revise many of the provisions objected to by the travel agents (first paragraph under "The Examiner's Decision").
- (2) The majority's agreement with the Examiner on the requirement of unanimous consent in selecting among applicants for travel agent status to be placed on a list of eligible applicants for ticket selling agencies (Item (4) under "Discussion and Conclusions").
- (3) The majority's agreement with the Examiner on the requirement of unanimous consent in voting on agency sales, transfers of agency locations, or changes of officers (Item (5) under "Discussion and Conclusions").
- (4) The majority's decision that there is nothing in the record to indicate that collective action of the lines dictates the payment or non-payment of commissions on cancelled voyages (Item (7) under "Discussion and Conclusions").
- (5) The majority's decision not to "rule on the interest which we feel it is necessary for a line to have in

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the foreign commerce of the United States before

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it can vote on the level of compensation paid to its agents here" (Item (8) under "Discussion and Conclusions").

Second, I dissent from the Commission's majority decision as follows:

- (1) Disapproving, unless modified, of the agreement to apply a unanimity rule to the level of agents' commissions (Item (1) under "Discussion and Conclusions").
- (2) Disapproving, unless modified, of the agreement to prohibit travel agents from selling transportation on non-conference or independent carriers (Item (6) under "Discussion and Conclusions").
- (3) Deciding that we have authority to regulate the level of commissions paid to travel agents and that we should take no action at this time on the level of commissions (Items (2) and (3) under "Discussion and Conclusions").

As regards my "*Second*" conclusion as stated above, the reasons for my dissent are advanced as follows:

INTRODUCTION

We are concerned with the approvability under Section 15 of the Act of certain terms of the Trans-Atlantic Passenger Steamship Conference General Agreement adopted January 14, 1929, and as amended to the latest approved amendment on March 13, 1961, and with the Atlantic Passenger Steamship Conference Agreement dated London February 12, 1946, approved by a predecessor agency on

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August 29, 1946. According to the numbering, Agreement No. 120 has been amended 76 times, and as of December 21, 1960, Amendment 120-76 shows 24 signatory members. No amendments are in the record for Agreement No. 7840, which has 15 signatory members. Headquarters of the former are in New York, and of the latter, in Folkestone, England, G. B.

The proceeding involving both Agreements is called a "general investigation" and was started by a predecessor agency on November 2, 1959, after an informal complaint on October 22, 1958, by the American Society of Travel Agents, Inc., concerning certain practices of the Atlantic Passenger Steamship Conference.

As a result of this investigation, the majority has decided that certain provisions of these agreements now violate Section 15 of the Act, although before the date of its report these provisions have been lawful and predecessor agencies have been fully informed of all revisions of these agreements. The agreements relating to commissions which are now found to be illegal are:

1. *Agreement No. 120*. Article D. "Passage fares and rates of commission and all conditions relating thereto, shall be in accordance with the provisions of the *Atlantic Passenger Steamship Conference Agreement* and the rules and regulations adopted thereunder." (Exh. 1, page 9.)

(Agreement No. 120 does not control commissions, but by this provision delegates the function to the body operating under Agreement No. 7840.)

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2. Article E. "*AGENCIES* (a) The member Lines shall confine the sale of their transportation to: (1) *Line's Own Offices*. . . . (2) *General Passenger Agencies*—i.e.,

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agencies appointed by a Line on a commission basis to control a specified territory in which sub-agencies are appointed who must report to such agencies . . . " Paragraph (e) of Article E prohibits a sub-agency " . . . from selling passage tickets for any steamer not connected with the fleets of the member Lines for which it has been duly appointed . . . if such steamer is operating in any competitive trans-Atlantic trade . . . " The member Lines agree to use a uniform "Sub-Agency Appointment Agreement" (Rule E-2). The prescribed terms of such agreement obligate the agent "to adhere to and comply with . . . the annexed rules . . . " Rule 5 annexed, called the tying rule, provides that "the agent is prohibited from booking passengers for any steamer not connected with the fleets of any of the member lines" and otherwise closely follows the language quoted above from paragraph (e).

3. *Agreement No. 7840*. Article 6. "(a) Rates of Commission and Handling Fees which Member Lines may pay to their General Agents or Sub-Agents shall be established by unanimous agreement of the Member Lines" (Exh. 2, page 9).

DISSENT NUMBER (1)

The majority does not question the validity of establishing rates by majority agreement or, as far as I know, by some other ratio, but concludes that the "unanimous agreement" obligation (the expression "unanimity rule as it applies to agents' commissions" is used) is invalid under Section 15.

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I dissent from this conclusion and the disapproval of the agreement under Section 15 that results therefrom. First,

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the reasons adduced do not support such a conclusion, and, second, there are other reasons which support the unanimous agreement obligation in Article 6, paragraph (a), of Agreement No. 7840.

The two respondent Conferences are successors of conferences in the trans-Atlantic passenger steamship industry going back to 1879 or before. The North Atlantic Steam Traffic Conference met for the first time on March 5, 1868, in New York. This Conference's Agreement of 1879 provided in Clause 19 that "all questions that may come before the Conference for action, must be decided by the unanimous vote of all members present, to be of any effect" (Exh. 119). Unanimous consent clauses of one sort or another are in conference agreements of 1885, 1894, 1921, 1928, and 1930 (Exh. 119). The record showed that commissions to sub-agents were originally fixed at fixed dollar amounts per passenger depending on destinations.

A Continental Conference meeting was first held in New York on May 4, 1885. The minutes of the meeting showed commissions to sub-agents were fixed.

The Atlantic Conference was re-formed in 1921 after the First World War. Eight years later, in 1929, the formerly separate conferences of Mediterranean, Continental, and North Atlantic lines joined in the one Trans-Atlantic Passenger Conference.

During all this time a unanimous consent was required with respect to decisions affecting each member's business affairs. One would think that such a long tradition behind

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an historically established business practice would require fairly compelling reasons of public policy to overturn it

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at this late date. A review of the majority's reasoning is enough to show this is far from the case.

The majority's significant reasoning opposing the unanimity rule (or regulation) is in the following discussion:

"It is a regulation which prevents travel agents in the United States from rendering complete and effective service both to passengers and to ocean carriers. It has in some cases prevented the principals from even considering the question of commission levels and in others has defeated, or at least delayed or watered down desires of the majority of the lines to raise commission levels, thus placing the steamship lines at a competitive disadvantage *vis a vis* the airlines. We think the Unanimity Rule plainly operates to the detriment of the commerce of the United States."

As I understand the reasoning, preventing or delaying consideration of commission levels, and delaying the desires of a majority to raise commission levels is thought to prevent complete and effective service and such a result is a detriment to commerce.

To me, this is tantamount to saying that the obligation has been effective in preventing increased commissions. The obligation has had a deterrent effect within the Conference, as the majority recognizes. Effectiveness within the Conference is not the issue. The effect of the obligation [Unanimity Rule] on the public and on our commerce is the relevant test. The majority seems to assume without the need to prove that if it can show the obligation allows "one single vote" to "block a proposal on commission matters even though the proposal was favored by an overwhelming majority of the member lines," then it has auto-

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matically shown public injury. This does not follow at all. Some connection between cause and effect has to be shown.

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The effect of a veto threat is to cause injury to carriers desiring a change, but not to commerce in general or to the public. Perhaps a causal link is thought to be provided when it is said the lines "should at least be allowed to increase commissions unhampered by the veto power inherent in the Unanimity Rule should they desire to do so." Significance is given to this statement only by the conclusion that such a regulation "prevents travel agencies in the United States from rendering complete and effective service both to passengers and ocean carriers . . .". One can only speculate that the twice-mentioned inability to increase, rather than reduce, rates has somehow prevented complete and effective service, but the way this happens as well as the effect it would have on the carriers and on the traveling public segment of our commerce should be clearly shown. It is doubtful much of a relation can be shown if it is based on increases, because the non-unanimity rule makes it equally easy to reduce commissions. At the moment travel agents seem to be motivated by the apparent desire of many carriers to raise commission percentages. This is only a transitory economic factor. When we deal with a matter of principle such as this, or with an historically established general rule for conducting business, we ought to be governed by long-term economic factors. The closest we get to a relation to commerce and the public interest is the thought that steamship lines are "at a competitive disadvantage *vis a vis* the airlines". Even this is referred to only as "some evidence" and it "related solely to the activities of agents who were not appointed by conference lines . . ." Unfortunately, it is only a judgment that is not even supported

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by the most interested parties, the respondent carriers, much less the record herein.

Since the evidence of airline competition falls so short of conclusively proving the point, it is said there is diversion anyway and this is "not in the interests of the conference lines themselves." Changing choices as to the method of travel involve only speculation as to the reasons for diversion. What causes the diversion is only theory, is not supported, and is even denied by the conferences. The airline diversion reasoning is at best inconclusive.

To the extent economics are relevant, this record is devoid of data showing the effect of a change in commissions either up or down on the respective parties or on the public. Naturally, the travel agents want more money, but we would have to know a great deal more than we can learn from this record as to the effect of an increase on passenger fares and on the precarious competitive balance that now seems to exist between ocean and air transportation. Passenger choices would seem to be governed as much by convenience and pleasure as by economics or passenger agent activity.

The second point is that the better public interest arguments, if anything, favor the validity of the obligation to not change commission rate levels without unanimous consent. The rule of group action by majority vote actually strengthens the power of the group because it puts the full power and influence of all the members of the group behind an action affecting the public even though some of the individual members do not agree with the action. Less than

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all the members have the power to direct group action. A unanimity requirement, on the other hand, weakens the group's power to act by giving a power to prevent action

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by a veto over decisions. If anti-trust law overtones are to be injected into our policy considerations, then anything which lessens the power of a group which makes dominating pricing decisions is to be favored. U. S. flag lines are a minority in most conferences, and the rule enhances their power to influence group decisions or to protect themselves from oppression by the business needs of non-American lines. Generally the business needs of non-American member lines are dictated by more favorable cost considerations than our own. There is a serious question as to whether the undoubted loss of flexibility of action implicit in a unanimity rule is overcome by the detriments that may be caused by the economic power of a group dominated by majority votes of non-American lines.

DISSENT NUMBER (2)

The majority disapproves the so-called tying rule of Article E. I dissent from this disapproval.

Both Article E of Agreement No. 120 and the related "rule" and prescribed terms of agency agreement, with minor revisions and with the approval of our predecessors, have existed since 1933. Other forms of the obligation have existed even before then. The so-called Alexander Report, which preceded the enactment of the Shipping Act, acknowledged that agreements existing in 1913 provided that: "(11) Agents of the lines which are parties to the agreement shall not interest themselves in the booking of passengers for new outside competing lines." (*Investiga-*

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tion of Shipping Combinations Under House Res. 587, Hearings Before the House Committee on Merchant Marine and Fisheries, 62d Cong., 2d Sess. (1913), Vol. 4, pages

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31-34 at page 33.) The obligation and rule were not shown to have been disapproved between 1916 and 1933, nor subsequently, so the tying obligation also has long historic acquiescence behind it. One would expect new factors and compelling reasons to overturn such an obligation after at least 48 years of use in one form or another, but this is not the case here either.

Against this background the majority refers to the Examiner's statements that (1) there is no need for the rule; and (2) "tying arrangements generally run counter to antitrust principles". The majority says the respondents have misconstrued these statements. The further comment is made that the antitrust "exemption should not be granted unless the purposes and policies of the Shipping Act are thereby furthered."

On the first point, the need or necessity test is not expressly made a standard of approval or disapproval under Section 15. Lack of competitive "need" or "necessity", or because the agreements can be characterized as "tying" arrangements which "generally run counter to antitrust principles", may have been equated with detriment to commerce as being against the public interest, but the link is not revealed.

The competitive necessity problem was not explored nor developed in this record. Even assuming this to be a valid test, the absence of any demonstration in this record proves nothing; it simply is not a basis for decision. If competi-

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tive necessity is to be a test, some effort should have been made to develop the facts on the point. Without the facts, it is no wonder the record "did not demonstrate" anything. Since the burden is on the Commission to approve unless we can show detriment or contrariety with public interest, we may not invert the burden at the last minute and say

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the respondent did not prove enough. It is up to the Commission to do the proving and disproving on this issue.

The second point, that tying agreements generally run counter to antitrust principles and are an anti-competitive practice, is not established. There was no exploration of what antitrust law might be applicable to the facts herein. Some tying agreements may be contrary and some not, but it is necessary to establish what type this one is and what law applies to it. Section 15 exempts agreements from these laws unless we can bring the agreement within the expressly stated standards, which has not been done except for the majority's effort to interpret "detriment" or "public policy" using a partial statement in *Isbrandtsen Co., Inc. v. United States et al.*, 211 F. 2d 51 (App. D. C. 1951) at p. 57 (cert. den. 347 U. S. 990). The full statement is: "The condition upon which such authority [to approve agreements under Section 15 of the Act] is granted is that the agency entrusted with the public interest scrutinize the agreement to make sure that the conduct thus legalized does not invade the prohibitions of the anti-trust laws any more than is necessary to serve the purposes of the regulatory statute." The Court equates consistency with an antitrust prohibition (itself difficult to determine) with a "public interest" standard. Such a

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standard was later put in Section 15 in 1961 by P. L. 87-346 (75 Stat. 762). There is no way of telling which antitrust prohibition is to be used to test invasion, nor any way of balancing the prohibition against the purposes of the Act.

Scrutinizing the inter-carrier obligation alone, it is impossible to say that the record and briefing in this case establishes that this long-established and approved agreement clearly invades the prohibitions of the antitrust laws

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or to what extent. Absent such a demonstration by the Commission, Section 15 compels approval.

The majority's comment establishes as a standard that approval of agreements under Section 15 now involves a grant of an antitrust exemption privilege on condition that certain objectives are "furthered". A test, such as furthering "policies and purposes," is not expressly prescribed in Section 15 or elsewhere. The agreement provision, as with any other inter-carrier agreement, *must be approved unless* the Commission can show it is detrimental to commerce, unjustly discriminatory or unfair as between carriers or ports or contrary to the public interest or otherwise in violation of the Act. Detriment, contrariety and violation, not furthering, are the tests.

The majority shows no connection between detriments to commerce or contrariety with public interest and the necessity to combat destructive carrier competition or furtherance of "regulatory purposes" or "purposes and policies" of the Act. Perhaps the connection is implicit, but even with an implicit connection we need a statement of how to measure stifling of competition and of what the purposes

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and policies thus set up as measurements consist of, plus a few facts to be measured by the standard tests. The needed tests cannot be determined from this record, much less the facts. One party recognized as much by falling back on illegality under Section 14, subparagraph "Third", as interpreted in *Federal Maritime Board v. Isbrandtsen*, 356 U. S. 481 (1958). Section 14 prohibits a carrier from retaliating against shippers by certain methods because of specified reasons. The *Isbrandtsen* interpretation of Section 14 establishes as a violation a contract requirement that a shipper not patronize independent or non-conference member carriers when such a contract is de-

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manded in a context of being a "necessary competitive measure to offset the effect of non-conference competition" because in such circumstance the demand becomes a "resort to other discriminating or unfair methods". Such a context of offsetting needs and demands does not exist here. All that has been done is, by some reverse logic of negatives, to argue that the absence of a showing of competitive necessity by the respondent conference carriers proves there is no need for the rule and without such need the rule is illegal, and besides tying agreements are generally illegal. Whatever is relied on, we are again faced with the necessity of supporting the burden of disapproval and of not relying on deficiencies in the respondent's case to support our burden.

For these reasons, I dissent from the majority's disapproval of the Conference's tying agreement.

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DISSENT NUMBER (3)

The majority has reversed the Examiner's conclusion that no ruling should be made on the Commission's authority to regulate the levels of compensation paid to travel agents by the carriers. This issue is entirely outside the scope of the issues as defined by our predecessor agency, the Federal Maritime Board, in its order of November 2, 1959: "to determine whether the aforementioned Agreements 120 and 7840 should be disapproved, cancelled, or modified, insofar as they relate to travel agents in accordance with Section 15 of the Shipping Act, 1916". Neither agreement sets levels of compensation nor requires any disapproval, cancellation, or modification of compensation levels. The agreements only provide a procedure for de-

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ciding how much or what percentage of the passage fare the members are willing to allow agents as compensation for the sale of tickets. The issue of levels was first raised in the brief of the Travel Agents, which stated: "Contrary to sweeping assertions of Conference counsel, the Maritime Commission has both the right and the responsibility to approve or disapprove the commission level established by the collective action of the respondents." It is possible that the level so established might violate the Shipping Act, but such an issue is not before us and the record is totally inadequate for such a serious decision. Here we are asked to pass on the reasonableness of rate levels and the majority says it is unable to make a finding that the present level of commissions is so low as to be detrimental to the commerce of the United States. The most that is provided by the majority, therefore, is a volunteer legal opinion

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regarding what is thought to be our authority, but there is no realistic application of the power because no change is made in the existing levels. Absent an application of the power, vouchsafing the opinion is frivolous. Apparently, now that the decision as to our jurisdiction is out of the way, we are free to proceed later to decide on a satisfactory level of commissions set pursuant to conference agreements, in spite of the disclaimer of "jurisdiction to set the specific level of compensation," assuming a difference between these two types of jurisdiction. When this time comes I anticipate the issue will be just as present and unresolved as it is now and will necessitate a decision with more practical issues at stake. Nothing is accomplished by a decision at this time.

The Examiner's decision not to pass on the question until more significant issues are at stake should be sustained.

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In concurring as to the results in Items (4) and (5) of the majority report, I do not necessarily approve the reasoning. The restraints imposed by the conference, whether by unanimity or any other percentage of votes, on the travel agents' freedom to enter business, sell their business, transfer ownership, or change officers or locations, were not justified by any corresponding advantage to the traveling public. I would decide without further proof that such freedom existed and that a restraint thereon by means of "control" committee clearances was against the public interest unless justified as an effective protection for the purchasers of tickets. These restraints can not be justified as reasonably related to the production of business or

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to an agent's capacity to perform his sales functions for the public. The respondents' carrier members may refuse to enter contracts or terminate contracts with agents they do not trust or consider to be improperly located for the generation of sales, but this is quite different from requiring prior consent to, or even consultation about, business decisions of travel agencies. The intrusion is against the public interest.

Commissioner Day concurring and dissenting:

I concur with the results reached in the majority report in this proceeding as set forth under "First" in the preceding opinion of Commissioner John S. Patterson, and for reasons advanced by Commissioner Patterson I am in accord with the remainder of his opinion.

By the Commission, January 30, 1964.

/s/ THOMAS LISI
Thomas Lisi
Secretary

(Seal)

Commission's Opinion and Order

—1—

FEDERAL MARITIME COMMISSION

No. 873

INVESTIGATION OF PASSENGER STEAMSHIP
CONFERENCES REGARDING TRAVEL AGENTS

ORDER

This proceeding having been instituted by the Commission to determine whether Agreement No. 120, Trans-Atlantic Passenger Steamship Conference, and Agreement No. 7840, Atlantic Passenger Steamship Conference, should be disapproved, cancelled or modified pursuant to section 15 of the Shipping Act, 1916, and the Commission having this date made and entered its Report stating its findings and conclusions, which Report is made a part hereof by reference, and having found that said Agreements in certain respects violate section 15 and must be modified, as set forth in said Report:

It is Ordered, That the parties to Agreements No. 120 and No. 7840, being the member lines of the Trans-Atlantic Passenger Steamship Conference and the Atlantic Passenger Steamship Conference, respectively, shall within 60 days from the date of this order file with the Commission for its review and approval under section 15 of the Act, modifications of said Agreements and the rules thereunder consistent with the said Report;

It is Further Ordered, That this proceeding shall be held open pending the Commission's further order following its consideration of the modifications so filed and the comments thereon which will be invited from interested parties.

By the Commission, January 30, 1964.

/s/ THOMAS LISI
Thomas Lisi
Secretary

(Seal)

—1—

Petition for Review**UNITED STATES COURT OF APPEALS****FOR THE DISTRICT OF COLUMBIA CIRCUIT**

[SAME TITLE]

—2—

**PETITION FOR REVIEW OF A FINAL ORDER OF THE
FEDERAL MARITIME COMMISSION**

1. This is a petition for review of a final Order of the Federal Maritime Commission dated January 30, 1964 and served on Petitioners on February 19, 1964 annexed hereto as Exhibit A).

Jurisdiction and Venue

2. The jurisdiction of this Court is invoked pursuant to Sections 2 and 4 of the Act of December 29, 1950, as amended, 64 Stat. 1129, 1130; 5 U. S. C. Secs. 1032, 1034.

3. Venue is in this Court pursuant to Section 3 of said Act, 64 Stat. 1130; 5 U. S. C. Sec. 1033.

Nature of the Proceedings

4. Petitioners, common carriers by water, comprise virtually all the passenger Steamship Lines serving the North Atlantic passenger trade. They file this petition as members of either or both the Trans-Atlantic Passenger Steamship Conference (TAPSC) and the Atlantic Passenger Steamship Conference (APSC). These conferences are successors of conferences in the trans-Atlantic passenger

Petition for Review

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steamship industry going back to at least 1879 which operated under agreements superseded by the agreements hereinafter referred to.

5. In 1929 the member Lines of the then existing North Atlantic, Mediterranean and Continental Conferences concluded that from the standpoint of operations in the United States and Canada the North American passenger trade could be more effectively served by a single conference on this side with uniform policies and procedures for all participating carriers. As a result, TAPSC was formed pursuant to Agreement No. 120, approved by the Commission* on February 12, 1929 pursuant to Section 15 of the Shipping Act, 1916, as amended, 39 Stat. 733, 46 U. S. C. Sec. 814. Since that initial approval, Agreement 120 has been frequently before the Commission over the years because of numerous modifications of its provisions filed with and approved by the Commission.

6. Currently TAPSC has 23 member Lines, 21 foreign-flag and 2 American, as follows:

—4—

American Export Lines, Inc.

Canadian Pacific Steamships (Canadian Pacific Railway Company)

C. C. N.—The Portuguese Line (Companhia Colonial de Navegacao)

The Cunard Steam-ship Company Limited

Donaldson Line Limited

Europe-Canada Line (Europe-Canada Linie, G. m. b. H.)

* "Commission" is used herein to refer to the Federal Maritime Commission and to its predecessor agencies.

Petition for Review

French Line (Compagnie Generale Transatlantique

Furness Line (Johnston Warren Lines, Ltd.)

Gdynia America Line (Polish Ocean Lines)

Greek Line—As one member only—

General Steam Navigation Co. Ltd. of Greece

Transatlantic Shipping Corp.

Neptunia Shipping Co., S. A.

Arcadia Steamship Corporation

Hamburg-Atlantic Line (Hamburg-Atlantik Linie

G. m. b. H.)

Holland-America Line (N. V. Nederlandsch-Ameri-

kaansche Stoomvaart-Maatschappij "Holland-

Amerika-Lijn")

Home Lines (Home Lines Inc.)

Incres Line (Incres Steamship Company Ltd.)

Italian Line ("Italia" Societa per Azioni di

Navigazine)

National Hellenic American Line (National Hellenic

American Line S. A.)

North German Lloyd (Norddeutscher Lloyd)

Norwegian America Line (Den Norske Amerikalinje

A/S, Oslo)

Oranje Line (Maatschappij Zeetransport N. V.)

Spanish Line (Compania Trasatlantica Espanola,

S. A.)

Swedish American Line (Aktiebolaget Svenska

Amerika Linien)

United States Lines (United States Lines Company)

Zim Lines (Zim Israel Navigation Company Ltd.)

7. ASPC, the successor to similar pre-World War II conferences, was re-formed pursuant to Agreement No.

Petition for Review

7840, approved by the Commission on August 29, 1946. Like Agreement 120, Agreement 7840 has since been frequently before the Commission by reason of various modifications submitted for Commission approval. It has the same membership as TAPSC except that it includes Ameri-

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can President Lines Ltd. and does not include Spanish Line. A primary purpose of APSC is to establish uniformity of policy among the member Lines with respect to matters affecting the North Atlantic passenger trade which are of mutual concern to member Lines on both sides of the Atlantic.

8. Agreement 120, among other things, spells out the obligations of and relationship between TAPSC member Lines and their appointed agents, located within TAPSC's jurisdictional area, i.e., the United States and Canada, for the sale of passenger transportation. It includes a uniform agency appointment agreement which member Lines agree to employ and provides that rates of commission payable to appointed agents shall be in accordance with APSC Agreement No. 7840.

9. Pursuant to Agreement 7840, APSC, among other things, establishes by unanimous agreement uniform policies for its members regarding the rates of commission payable to agents. Under Agreement 120 such rates are also applicable to agents appointed by the member Lines of TAPSC.

10. As a result of a petition filed by the American Society of Travel Agents (ASTA), the Commission, by order dated November 2, 1959, instituted an investigation to determine whether Agreements 120 and 7840 "should be

Petition for Review

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disapproved, cancelled or modified, insofar as they relate to travel agents" (*Investigation of Passenger Steamship Conferences Regarding Travel Agents*, Docket No. 873). ASTA is a trade association of which about one-third of the approximately 4,500 travel agents in the United States and Canada are members.

11. Extensive hearings were held before a Commission Examiner, participated in by Commission Hearing Counsel, petitioners as respondents and ASTA and certain individual travel agencies as interveners.

12. Hearing Counsel and ASTA objected to certain practices and procedures of petitioners relating to the selection, supervision and compensation of travel agents and, on the basis of such objections, sought to have the Commission declare the provisions of Agreements 120 and 7840 regarding travel agents violative of Section 15 of the Shipping Act, 1916.

13. In an Initial Decision dated January 24, 1963, the Hearing Examiner upheld certain objections and rejected others.

14. Hearing Counsel, ASTA and petitioners filed exceptions with the Commission to certain of the Hearing Ex-

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aminer's rulings. The Commission, two members dissenting in part, issued a Report and Order. Petitioners do not seek review of most of the Commission's rulings. Nor do they consider ripe for review the Commission's statement, by way of dicta, that it has "jurisdiction over the level of agents' commissions set pursuant to conference agree-

Petition for Review

ments," since the Commission found no occasion to exercise this asserted jurisdiction in this proceeding.

15. Petitioners seek review of the following Commission rulings:

(a) The Commission, with two members dissenting, overruled the Hearing Examiner and disapproved, as now violative of Section 15 of the Shipping Act, 1916, the provision of Agreement 7840 which requires unanimous agreement by member Lines to raise or lower the maximum commission rate payable to agents.

(b) The Commission, with two members dissenting, disapproved, as now violative of Section 15 of the Shipping Act, 1916, the provision of Agreement 120 which prohibits appointed agents from selling without prior permission trans-Atlantic transportation on vessels of non-conference lines operating a competitive trans-Atlantic service.

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16. Unanimous agreement provisions have been in agreements of the Conferences' predecessors at least as far back as 1885. Such provisions have been approved by the Commission at least since 1921. The provision prohibiting appointed agents from selling transportation on non-conference lines has been part of Agreement 120 and approved by the Commission since 1933. The existence of similar provisions was acknowledged by the Congressional "Alexander Report" (*Investigation of Shipping Combinations Under House Res. 587*, Hearings Before the House Committee on Merchant Marine and Fisheries, 62d Cong., 2d Sess. (1913), Vol. 4, pages 31-34 at page 33) as far back as 1913. In view of the length of time the Conference agreements have had Commission approval and the many times they

Petition for Review

have been before the Commission for approval of modifications, the present rulings disapproving the provisions in question represent a drastic reversal of established policy.

Grounds for Relief

17. The Commission rulings as to which review is sought should be set aside, annulled and permanently enjoined as unlawful and invalid because:

(a) They are based on misapplication of or failure to apply the standards and requirements of the Ship-

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ping Act, 1916, and particularly of Section 15 thereof. The Agreement provisions disapproved, purportedly pursuant to Section 15, were not shown to be unjustly discriminatory, to operate to the detriment of the commerce of the United States or to be contrary to the public interest and therefore should have been approved pursuant to Section 15.

(b) They exceed the Commission's statutory power and jurisdiction in that they are based on considerations and policies not set forth in the Shipping Act, 1916, or otherwise entrusted to the Commission for enforcement.

(c) Insofar as they purport to be based on findings of violation of the standards of the Shipping Act, 1916, they are not supported by reliable, probative and substantial evidence.

Relief Prayed

WHEREFORE, petitioners pray that the Commission rulings as to which review is sought herein, and that part of

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Petition for Review

the aforesaid Commission Order which incorporates them,
be set aside, annulled and permanently enjoined and that

—10—

petitioners have such other and further relief as to the
Court may seem just and proper.

Dated: New York, New York
April 16, 1964

Respectfully submitted,

CARL S. ROWE ✓
Carl S. Rowe

EDWARD R. NEAHER
Edward R. Neaher

Warren E. Baker

CHADBOURNE, PARKE, WHITESIDE & WOLFF
Shoreham Building
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and

JOSEPH MAYPER
Trans-Atlantic Passenger Steamship
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17 Battery Place
New York, N. Y. 10004

Attorneys for Petitioners

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—1—

Prehearing Conference Stipulation**UNITED STATES COURT OF APPEALS****FOR THE DISTRICT OF COLUMBIA CIRCUIT****No. 18,554**

[SAME TITLE]

Pursuant to Rule 38(k) of the Court, and subject to its approval, the parties hereby stipulate and agree as follows with respect to the issues and the procedures and filing date for the joint appendix herein.

I**Issues**

Petitioners, ocean passenger common carriers, are members of either or both the Trans-Atlantic Passenger Steamship Conference and the Atlantic Passenger Steamship Conference, shipping conferences formed pursuant to Agreements Nos. 120 and 7840, previously filed with and approved by Federal Maritime Commission pursuant to Section 15 of the Shipping Act, 1916, 46 U. S. C. §814. Petitioners seek review of a Final Order of the Commission, dated January 30, 1964, in *Investigation of Passenger*

—2—

Steamship Conferences Regarding Travel Agents, Docket No. 873, insofar as said Order disapproves, as violative of Section 15 of the Shipping Act, 1916, (1) the provision of Agreement No. 7840 which requires the unanimous agreement by member lines to raise or lower the maximum commission rate payable to appointed agents for the sale of passenger transportation, and (2) the provision of Agree-

Prehearing Conference Stipulation

ment No. 120 which prohibits such appointed agents from selling without prior permission transportation on vessels of non-conference lines operating a competitive trans-Atlantic service.

The issues presented by petitioners are whether the portions of the said Order as to which petitioners seek review:

(1) Exceed the Commission's statutory authority in that they fail to apply or are contrary to the standards and requirements of the Shipping Act, 1916, and particularly of Section 15 thereof;

(2) Are unlawful because violative of the Commission's statutory duty to approve agreements not violative of the standards and requirements of Section 15 of the Shipping Act, 1916;

(3) Are, as a matter of law, not based on sufficient findings to support the conclusion that the disapproved provisions of the Agreements operate to the detriment

—3—

of the commerce of the United States or are otherwise violative of the standards and requirements of Section 15 of the Shipping Act, 1916;

(4) Are arbitrary and capricious in that they represent a sweeping and unwarranted reversal of long-established Commission practices and decisions and prior approvals without any foundation in changed circumstances or otherwise;

(5) Are invalid because insofar as they purport to be based on findings of violations of the Shipping Act, 1916, are not supported by reliable, probative and substantial evidence of record.

Prehearing Conference Stipulation

Respondents reserve the right to rephrase the issues in their briefs or to take the position that some or all of the points raised by petitioners are without foundation in the record.

II

Procedures With Respect to Printing of the Joint Appendix and Use of Unprinted Portions of the Record

In preparing and printing briefs, record references shall be to the pages of the documents before the agency as certified to the Court. The joint appendix shall be printed with the page numbers of these documents as certified in this Court appearing at the place where each new document page begins on the printed page of the joint appendix, and running heads showing the document pages appearing thereon shall be printed at the outer top corners of each

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page of the printed joint appendix. The usual numerical pagination of the printed joint appendix will appear in the center of the top of the page.

Parties may serve briefs in typewritten or mimeographed form, provided that printed copies of such briefs shall thereafter be filed with the Court and served upon opposing parties within 10 days after the due date of the reply brief. In all instances, at least two copies of each brief shall be served on counsel for each opposing party.

At the time each party serves its brief, it shall also serve its designation of the portions of the certified record to be reproduced in the joint appendix.

Within 10 days after the due date of the reply brief, the petitioners shall cause the joint appendix to be printed and filed with the Court and served upon the respondent.

Prehearing Conference Stipulation

Any party and the Court, at and following the hearing in this case, may refer to any portion of the original transcript of record herein which does not appear in the joint appendix to the same extent and effect as though such portions of the transcript had appeared in such appendix.

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Dated: Washington, D. C.
May 19, 1964

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EDWARD R. NEAHER
WARREN E. BAKER
Chadbourn, Parke
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Prehearing Order**UNITED STATES COURT OF APPEALS****FOR THE DISTRICT OF COLUMBIA CIRCUIT****No. 18,554—September Term, 1963**

AKTIEBOLAGET SVENSKA AMERIKA LINIEN
(Swedish American Line), et al.**v.****FEDERAL MARITIME COMMISSION and**
UNITED STATES OF AMERICA

Before:**WASHINGTON, Circuit Judge, in Chambers.****PREHEARING ORDER**

Counsel for the parties in the above-entitled case having submitted their stipulation pursuant to Rule 38(k) of the General Rules of this Court, and the stipulation having been considered, the stipulation is hereby approved, and it is

ORDERED that the stipulation shall control further proceedings in this case unless modified by further order of this court, and that the stipulation and this order shall be printed in the joint appendix herein.

Dated: June 9, 1964

**Opinion of Court of Appeals for the District of
Columbia Circuit, 351 F.2d 756 (1965)**

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18554

AKTIEBOLAGET SVENSKA AMERIKA LINIEN
(SWEDISH-AMERICAN LINE), ET AL., PETITIONERS,

v.

FEDERAL MARITIME COMMISSION AND
UNITED STATES OF AMERICA, RESPONDENTS,
AMERICAN SOCIETY OF TRAVEL AGENTS, INC.
("ASTA"), INTERVENOR.

On Petition for Review of a Final Order of
the Federal Maritime Commission

Decided June 10, 1965

Before EDGERTON, Senior Circuit Judge, and WASHINGTON and DANAHER, Circuit Judges.

WASHINGTON, *Circuit Judge*: This is a petition by steamship lines, which are members of the Trans-Atlantic Passenger Steamship Conference (TAPC) and the Atlantic Passenger Steamship Conference (APC), to review a final order of the Federal Maritime Commission in a proceed-

*Opinion of Court of Appeals for the
District of Columbia Circuit*

ing begun on petition of the American Society of Travel Agents, Inc. (ASTA). Insofar as relevant here, that order disapproved under Section 15 of the Shipping Act of 1916, as amended, 46 U.S.C. § 814 (Supp. V, 1959-63), two provisions of the steamship conference agreements, namely: (1) the provision which requires unanimous action of Conference members (the petitioning steamship companies) to fix or alter the maximum commission payable to travel agents appointed by the Conferences to sell passenger bookings on Conference ships (hereinafter referred to as the "unanimity rule"); and (2) the provision which prohibits travel agents so appointed from selling passenger bookings on competing non-conference steamship lines without prior permission from the Conferences (hereinafter referred to as the "tying rule").

Three United States steamship lines and twenty-three foreign-flag steamship lines comprise the membership of the steamship conferences before us.¹ We note that our country has adopted a policy, in the international transportation field, of encouraging, or at least allowing, United States carriers to participate in the steamship conferences, and to be governed by unanimity in respect of matters covered by conference agreements, barring disapproval under the standards prescribed by 46 U.S.C. § 814. Congress has recognized that, without such agreements, competition could become so destructive as to wreck the carriers. See S.Rep.No. 860, 87th Cong., 1st Sess. 4, 8-9, and *passim*

¹TAPC consists of two American-flag carriers and 23 foreign-flag carriers. APC consists of three American-flag carriers and 22 foreign-flag carriers.

*Opinion of Court of Appeals for the
District of Columbia Circuit*

(1961), issued with respect to an investigation of the shipping industry,² and the "Alexander Report," H.Doc. No. 805, 63d Cong., 2d Sess. 46-47, 295 (1914), the study leading to the Shipping Act of 1916. And cf. Boyd [the then Chairman of the Civil Aeronautics Board], *The Future of the International Carrier*, FLIGHT FORUM 7 (Sept. 1964).³ To this end, Congress has provided in 46 U.S.C. § 814 that such steamship conference agreements are exempt from the provisions of the United States antitrust laws when approved by the Federal Maritime Commission, that the Commission may disapprove an agreement only if it finds the agreement to be

² The Report says in part at page 4:

"The history of ocean shipping proves beyond peradventure that these competitive rigors are so potentially violent that when unleashed almost invariably they destroy the requisite dependability, regularity and nondiscriminatory nature of ocean common carriage.

"For many years all of the maritime nations of the world, including the United States, have realized that the inevitable monopolistic and discriminatory nature of rate-war competition among the ocean common carriers serving their foreign commerce, justified the formation of conferences so that the carriers may limit or regulate competition between or among themselves."

³ Chairman Boyd there said:

"IATA [International Air Transport Association, an organization somewhat similar to the Conferences presently before us] will continue to be the machinery for developing fares and rates * * *. This will be true whether or not the unanimity voting rule continues to apply as it has in the past. This rule, originally adopted and insisted upon by the United States to protect each carrier's right of individual action, admittedly has its deficiencies. However, I am inclined to conclude these are less than those which would stem from a form of majority vote."

*Opinion of Court of Appeals for the
District of Columbia Circuit*

"unjustly discriminatory or unfair as between carriers * * *, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this chapter,"

and that it *shall* approve all other agreements.⁴

⁴ The text of Section 814, as amended, reads, insofar as here pertinent, as follows:

"Every common carrier by water, or other person subject to this chapter, shall file immediately with the Commission a true copy, or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this chapter, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition * * *. The term 'agreement' in this section includes understandings, conferences and other arrangements.

"The Commission shall by order, after notice and hearing, disapprove, cancel or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this chapter, and shall approve all other agreements, modifications or cancellations. * * *

"Every agreement, modification, or cancellation lawful under this section, or permitted under section 813a of this title, shall be excepted from the provisions of sections 1-11 and 15 of Title 15, and amendments and Acts supplementary thereto."

*Opinion of Court of Appeals for the
District of Columbia Circuit*

1. The Unanimity Rule.

In his Initial Decision the Hearing Examiner, appointed by the Commission, concluded that the unanimity rule should be approved. Upon review the Commission (by vote of three members, with two members dissenting) disagreed, finding that the unanimity rule as applied to agents' commissions operates to the detriment of the commerce of the United States and hence must be disapproved under Section 15 of the Shipping Act.⁵ The Commission based its factual conclusion on the following considerations:

"It [the unanimity rule] is a regulation which prevents travel agents in the United States from rendering complete and effective service both to passengers and to ocean carriers. It has in some cases prevented the principals from even considering the question of commission levels and in others has defeated, or at least delayed or watered down the desires of the majority of the lines to raise commission levels, thus placing the steamship lines at a competitive disadvantage *vis-a-vis* the airlines."

⁵ There is no merit in the point that the Commission is without power to disapprove an agreement which has been previously approved. The statute quoted above in footnote 4 expressly confers the power to do so, provided the Commission finds that the agreement does one of the four things named in the statute as grounds for disapproval. But where the disapproval follows a history of prior approvals, as here, see the dissent of Commissioner Patterson concurred in by Commissioner Day, we think that the finding should be scrutinized by a reviewing court with greater care.

*Opinion of Court of Appeals for the
District of Columbia Circuit*

Commissioner Patterson, joined by Commissioner Day, on this point, emphasizing that the need for the rule from a competitive standpoint has not been made a standard for approval or disapproval by the statute.

Since there is no finding here that the tying rule operates in any one of the four ways which Congress prescribed in 46 U.S.C. § 814 for disapproval, we must return the case to the Commission. Such a finding is not for us to make. Accordingly, we remand for the purpose of reconsideration, with directions that either an adequately supported ultimate finding be made which warrants disapproval under the statute, or if no such finding can be made on the record, that the tying rule be approved as directed by 46 U.S.C. § 814.

So ordered.

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**Commission Notice of Reopening of Proceeding
Served August 18, 1965.**

FEDERAL MARITIME COMMISSION

Docket No. 873

**INVESTIGATION OF PASSENGER STEAMSHIP CONFERENCES
REGARDING TRAVEL AGENTS**

On February 19, 1964, the Federal Maritime Commission served its report and order in Docket No. 873 in which it conditioned continued approval of the agreements of the Atlantic Passenger Steamship Conference and the Trans-Atlantic Passenger Steamship Conference upon required modifications of their agreements. Subsequently, the member lines of these conferences petitioned the United States Court of Appeals for the District of Columbia Circuit to review the Commission's action with respect to (1) its disapproval of the requirement of the Atlantic Passenger Steamship Conference conditioning a change in the maximum commission level payable to the agents of its member lines for the sale of passenger transportation upon the unanimous accord of the lines (unanimity rule), and (2) the Commission's disapproval of the requirement of the Trans-Atlantic Passenger Steamship Conference prohibiting its member lines' agents from selling, without prior conference permission, transportation on competitive non-conference lines (tying rule).

On June 10, 1965, the Court issued its decision reversing the Commission's action with respect to the unanimity rule and the tying rule and remanding the proceeding for reconsideration by the Commission with directions to make

Commission Notice of Reopening of Proceeding

additional ultimate and supporting findings, or to approve the rules.

Therefore, It is Ordered, That Docket No. 873 be reopened for reconsideration of the remanded issues as posed in the opinion of the United States Court of Appeals for the District of Columbia Circuit in No. 18,554, issued June 10, 1965, and that such reopening shall be limited to the receipt of briefs, with any fact relied upon by either party to be specifically identified by reference to the place in the record where found; that opening briefs shall be simultaneously filed by the parties on or before the close of business on September 9, 1965; and that reply briefs may be filed within fifteen days after the date for filing opening briefs. Any party desiring oral argument must request same in its opening or reply brief.

By the Commission.

THOMAS LISI
Secretary

(SEAL)

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**Commission Report and Order on Remand
Served July 20, 1966**

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FEDERAL MARITIME COMMISSION

No. 873

**INVESTIGATION OF PASSENGER STEAMSHIP CONFERENCES
REGARDING TRAVEL AGENTS**

Provisions of Conference Agreement No. 7840 requiring unanimous accord of the member lines in deliberations to raise or lower the maximum commission rate payable to the lines' agents on sales of passenger transportation (unanimity rule) found detrimental to the commerce of the United States and contrary to the public interest within the meaning of section 15 of the Shipping Act, 1916, and disapproved.

Provision of Conference Agreement No. 120 and rules adopted thereunder prohibiting the member lines' agents from selling, without prior permission, transportation on competitive nonconference lines (tieing rule) found unjustly discriminatory as between carriers, detrimental to the commerce of the United States and contrary to the public interest within the meaning of section 15 of the Shipping Act, 1916, and disapproved.

Carl S. Rowe, Frank B. Stone, Edward R. Neaher, Lino A. Graglia and Joseph Mayper, for Trans-Atlantic Passenger Steamship Conference and Atlantic Passenger Steamship Conference, respondents.

*Opinion of Court of Appeals for the
District of Columbia Circuit*

As to the first point, we cannot agree that the unanimity rule prevents complete and effective service by travel agents. The commission rate of 7% which was being paid at the time of the hearing below was arrived at by unanimous agreement and was the same as that paid by the transatlantic airlines. It was found, however, that appointed agents tend to push air rather than sea travel, because, as the Commission stated, it "takes approximately three or four times as much of an agent's time to sell sea as compared with air space, and several years of experience are required to produce a really competent steamship passage salesman."*. On the basis of the Commission's own statement, therefore, it is not the unanimity rule, but economic factors which prevent agents "from rendering complete and effective service both to passengers and to ocean carriers"—if by that the Commission meant the "pushing" of air over sea travel. And the Commission's opinion sug-

* The greater time required to handle steamship bookings results, as the Commission pointed out, in a lower "effective" commission rate than that of the airlines.

Although the Commission did not refer to it, the record shows that sales of transportation on steamship lines have been increasingly adversely affected by the preference of many travelers for air transportation. As the Examiner noted, this preference is due in part to the pushing of air travel by agents in their own interests, and in part to the saving of travel time, particularly on jets, extensive advertising by airlines, and other factors.

The Commission found, moreover, that "differences between [conference] members over agents' commissions are usually eliminated or compromised, the minority giving way eventually to the majority." And the Examiner found, based on testimony which the Commission seems to have credited, that in view of the small minority of American-flag lines in the conference, the unanimity rule in this respect is "of substantial value to the American-flag lines" preventing "travel agents from playing one line against

*Opinion of Court of Appeals for the
District of Columbia Circuit*

gests no other way in which complete and effective service by appointed agents is prevented.⁸

In this connection it is to be noted that the Hearing Examiner pointed out that, because of the economic advantage to the agent in selling air transportation over steamship transportation, the practice by appointed agents of diverting a prospective passenger from sea to air transportation "is prevalent enough to constitute a substantial competitive disadvantage for the shiplines and an interference with a free and objective choice between the two modes of transportation by potential travelers, such interference being based on the self-serving interest of the travel agents." He found that this practice is not in "the best interest of the traveler"; "is not in the best interest of commerce and is adverse to the public interest." But he noted that the conferences might amend their rules to prohibit such diversion, with appropriate penalties for violations (though we do not pass on this conclusion as a matter of law); and that it was not the unanimity rule on commissions which had caused the evil. We find this reasoning persuasive.

another." The Commission noted, however, that "American lines have often been in the vanguard for commission increase and as near as can be determined have never blocked proposed increases."

⁸ The Commission refers to instances where there has been a diversion from sea to air passage by non-appointed agents "against the best interest of the prospective passengers." While the Commission recognized that the non-appointed agents did not owe any duty to the conference lines, it stated that the diversion was not in the interests of the conference lines themselves. That probably is so, but it has little relevance in connection with the unanimity rule in this context.

*Opinion of Court of Appeals for the
District of Columbia Circuit*

As to the second reason or ground given by the Commission for disapproval of the unanimity rule as applied to agents' commissions—that the desires of the majority of the steamship lines are frustrated, thus placing steamship lines at a competitive disadvantage—we find nothing in the Commission's findings to indicate that frustration of the desires of the majority is the factor which places steamship lines at a competitive disadvantage. As the Examiner stated, the record does not show that a majority would decide now to raise the commission level above 7% or would have raised it to that figure at any time before the conference voted unanimously to do so in 1956. Indeed, the Commission itself said that for economic reasons, it perhaps is not feasible for the steamship lines to raise commission levels at the present time. Most significantly there is no finding that a higher rate would improve the competitive position of the steamship lines.

As Commissioners Patterson and Day point out, even though effectuation of the wishes of the majority as to the commission level has been delayed or deterred by the unanimity rule, that result does not fall within any of the statutory tests. As they said: "The effect of the obligation [unanimity rule] on the public and on our commerce is the relevant test." Moreover, as both the Commission and the Examiner noted, disapproval at one meeting does not block further consideration of the proposal at the next meeting—as the history of the agents' commissions in this case indicates—and eventually ultimate agreement—as again the history here supports. The fact that the wishes of the majority may be blocked temporarily, or in an extreme case even permanently, by the unanimity rule is not in our view a sufficient reason under the statute for dis-

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approval—failing some persuasive findings demonstrating detriment to the commerce of the United States. We do not find that here.

We must remand the order disapproving the unanimity rule to the Commission for reconsideration, with directions either to make supporting findings which adequately sustain the ultimate finding that the unanimity rule operates to the detriment of the commerce of the United States, or, if this cannot be done, to vacate that ultimate finding and approve the contract in this respect. Cf. *Securities & Exchange Commission v. Chenery Corp.*, 318 U.S. 80, 63 S.Ct. 454, 87 L.Ed. 626 (1943); *Bond v. Vance*, 117 U.S.App. D.C. 203, 327 F.2d 901 (1964).

2. The Tying Rule

Although the Commission disapproved the tying rule under 46 U.S.C. § 814, we are unable to find any ultimate factual conclusion within those specified in that section which would support its disapproval. That is, there is no finding that the rule is “unjustly discriminatory or unfair as between carriers, * * *,” that it operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of “this chapter.” In the absence of such a specific finding, the rule is, by direction of Section 814, to be approved.

To be sure, the Commission may have relied on the criteria established by the Hearing Examiner as follows:

“Any provision * * * [of the agreements or rules thereunder] which prevent travel agencies in the United States from rendering complete and effective service

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both to passengers and to ocean carriers operate to the detriment of the commerce of the United States. All conference-imposed restraints which prevent the travel agent from properly performing his function of selling ocean transportation, for which no reasonable justification exists, should be eliminated by the Commission's disapproval, cancellation, or modification of the subject agreements * * * ."

But the Commission did not demonstrate or find that the tying rule prevents travel agencies in the United States from rendering complete and effective service both to passengers and ocean carriers to the detriment of the commerce of the United States, nor did it find that the rule prevents the travel agent from properly performing his function of selling ocean transportation. It found that TAPC members carry 99% of the passengers moving by water across the Atlantic and that the non-conference cargo vessels must rely on travel agents for the sale of their 1% share of ocean transportation, but it did not find that non-conference vessels must rely on *conference-appointed* travel agents. It stated also that there is no evidence to demonstrate that TAPC would disintegrate without the rule. It pointed out that, although the principal economic threat to the conference lines is from the air carriers, the conference allows its appointed agents to sell air travel. But there is a complete lack of findings bringing the case within the criteria adopted by the Examiner, assuming for present purposes that such criteria are properly used to supplement the statutory provisions themselves.

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The Examiner disapproved the tying rule also, without stating his specific ground for disapproval in the statutory language. He pointed out that the purpose of the rule was an anti-competitive one—to keep non-conference vessels from booking passengers—but that the practice is not applied to sale of air transportation, the chief competition for the conference lines.

The Examiner concluded that the tying rule had not been shown to be necessary to promote stability in rates or to combat destructive competition, and that the need for the rule no longer exists, if it ever did.

We do not read the statute as authorizing disapproval of an agreement on the ground that it runs counter to anti-trust principles, the theory on which seemingly the Commission's disapproval rests here. Many of the matters covered by conference rules are restrictive and even monopolistic in tendency. Yet, if the agreement is approved under 46 U.S.C. § 814, an exemption from the antitrust laws is specifically given by that section. The statutory language authorizes disapproval only when the Commission finds as a fact that the agreement operates in one of the four ways set out in the section by Congress.⁹ See the dissent of

⁹ This is not to say of course that the Commission must completely separate itself from antitrust principles in determining whether an agreement operates detrimentally to United States commerce, or against the public interest, or unfairly as between carriers, or in violation of the Shipping Act. *Cf. Isbrandtsen Co. v. United States*, 93 U.S.App.D.C. 293, 299, 211 F.2d 51, 57, *cert. denied sub nom. Japan-Atlantic & Gulf Conference v. United States*, 347 U.S. 990, 74 S.Ct. 852, 98 L.Ed. 1124 (1954), where we pointed out that the prohibitions of the antitrust laws are not to be invaded "any more than is necessary to serve the purposes" of the Shipping Act.

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Robert J. Sisk and Harold S. Barron, for American Society of Travel Agents.

Norman D. Kline and Donald J. Brunner, Hearing Counsel.

REPORT ON REMAND

By the Commission:

(John Harlee, Chairman; Ashton C. Barrett, George H. Hearn, Commissioners.)

This proceeding is before us again upon remand from the United States Court of Appeals for the District of Columbia Circuit. *Aktiebolaget Svenska Amerika Linien (Swedish American Line), et al. v. Federal Maritime Commission*, 351 F. 2d 756 (1965).¹ Originally instituted by our predecessor the Federal Maritime Board, the proceeding was the outgrowth of a petition filed with the Board by the American Society of Travel Agents. The Society (or ASTA) requested the institution of an investigation into certain activities of two conferences, the Trans-Atlantic Passenger Steamship Conference (TAPSC) and the Atlantic Passenger Steamship Conference (APSC), established and governed by Agreements 120 and 7840 respectively, both of which were approved by a predecessor

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agency under section 15 of the Shipping Act, 1916. The inquiry thus begun was the first comprehensive investigation of the relationship between passenger conferences and travel agents since the passage of the Shipping Act in 1916.

¹ Unless the context of this report requires otherwise, the Court of Appeals for the District of Columbia Circuit and its decision in *Svenska* will be referred to simply as "the Court of Appeals" and "the opinion."

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After extensive hearings, an initial decision by Examiner E. Robert Seaver and exceptions thereto, we heard oral argument and served our final decision in February, 1964. While we disapproved several other practices of respondent conferences, they sought judicial review of our order only insofar as it disapproved two provisions of their agreements: (1) the provision of the Atlantic Passenger Steamship Conference's agreement requiring unanimous vote of the membership to fix or alter the maximum commission payable to travel agents appointed by the conferences to sell passenger bookings on conference vessels (the unanimity rule); and (2) the provision of the Trans-Atlantic Passenger Steamship Conference agreement which prohibits travel agents appointed by the respondents from selling passenger bookings on competing nonconference steamship lines without prior permission from respondents (the tying rule).

In June of last year, the Court of Appeals issued its decision reversing our disapproval of the unanimity and tying rules and remanding the proceeding to us: (1) "to either make supporting findings which adequately sustain the ultimate finding that the unanimity rule operates to the detriment of the commerce of the United States, or if this cannot be done, to vacate that ultimate finding . . ." and approve the rule, and (2) to either make "an adequately supported ultimate finding . . . which warrants disapproval under the statute or if such finding can not be made on the record" to approve the tying rule under section 15. We ordered reopening of the proceeding on the remanded issues. The reopening was limited to the filing of briefs and oral argument by the parties. Respondent

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conferences, ASTA and Hearing Counsel filed opening briefs, the conferences and Hearing Counsel replied, all parties argued orally.

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*The Operation and Effect of the Unanimity Rule
Provisions of Agreement 7840*

The Atlantic Passenger Steamship Conference came into being in 1946 with the approval under section 15 of the Shipping Act of Agreement No. 7840.² The APSC's current voting membership is identical with that of the Trans-Atlantic Passenger Conference, except that APSC includes American President Lines and does not include Spanish Line. The conference is headquartered in Folkstone, England, and six of its member lines serving only Canadian ports do not render passenger service at any port on the United States Atlantic Coast.

Article 6(a) of Agreement 7840 sets forth the unanimity rule and provides:

(a) Rates of Commission and Handling Fees which Member Lines may pay to their General Agents or Sub-Agents shall be established by unanimous agreement of the Member Lines.

Conference meetings, including those at which agents' commissions were dealt with, were conducted on an informal basis and votes by the members were neither recorded nor filed with the Commission. Prior to the meetings of the principals, a committee of the conference, called the A.C. Subcommittee, which has initial responsibility on

²For the full text of section 15, see Appendix A.

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commissions and rates, meets to consider matters which it may present or recommend to the principals. Article 3(d) of Agreement 7840 provides:

... Conference action shall be by unanimous agreement of the member lines, except as may be otherwise provided herein.

This has been construed by the conference to require that all recommendations by the A.C. Subcommittee must be based upon the unanimous accord of its members.

In 1950 the maximum rate of commissions payable to travel agents was 6 percent. The minutes of March 8, 1950, show that lack of unanimity prevented the A.C. Subcommittee from recommending an increase in commissions. The minutes of March 9, 1950, demonstrate that again lack of unanimity prevented a recommendation to increase commissions even though "all Lines expressed a willingness

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in principle to an increase in agency commission" and "the majority of the Lines . . . were prepared to increase the commission to 7½ percent all classes all seasons." A year later, on March 1, 1951, when commissions were finally increased to 7½ percent, the increase excluded, again against the views of the majority, sales made in the so-called high or summer season. On these sales the 6 percent commission remained in effect.

In October of 1951, a majority of the lines again attempted to increase the commission level, but "it was not possible to reach unanimous agreement," and again the failure to increase commissions was in the face of "a strong majority in favour of applying 7½% commission to all classes through the year." Lack of unanimity precluded

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any recommendation by the Committee to the principals on commission increases and the matter was "deferred for consideration at the Statutory Meeting in March 1952." At the March 1952 meeting the principals deferred the matter of agents' commissions for consideration in June of that year by the A.C. Subcommittee, but in June the Subcommittee deferred it again for consideration at the conference meeting to be held in October 1952. In October, when the Subcommittee finally took up the matter of commission levels, it was again unable to make a recommendation to the principals because "unanimity could not be reached on a proposal to extend the off-season basis to bookings for seasonal sailings."³

The record sheds no light on any further conference action on the level of commissions until a 7 percent year-round commission was set at a special meeting in May 1956. Prior to this the matter had been discussed at a regular February-March meeting in 1956, but apparently no minute was kept on this meeting and none was filed with the Federal Maritime Board. However, the records of United

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States Lines, a member of the conference, reveal that at this meeting one of the lines exercised its veto power under the unanimity rule to prevent the conference from at once putting into effect "an immediate adjustment in commission to 7% all year."

At the time of the hearing in this proceeding, the airlines paid a 10 percent commission on the air portion of foreign

³ The matter of commissions was on the principals' agenda for a meeting in March of 1953, but action was deferred to the Subcommittee meeting to be held in June 1953. The matter was again deferred by the Subcommittee in June. In these two instances the reason for deferral does not appear.

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inclusive tours, i.e. selling air tickets in conjunction with a land tour. At this same time APSC members paid only 7 percent on the water portion of such tours. At the APSC meeting in October 1957, Cunard Line complained that "the steamship Lines are seriously handicapped by not giving this [10% tour commission] concession." The travel agents themselves pointed out that the difference in tour commission levels was a factor contributing to the "definite tendency to sell air travel." In May 1960 a majority of the principals favored establishment of a 10 percent commission for tours. However, it was not until December 1962, 2½ years later and after close of hearings in this proceeding but before initial decision, that the percentage level for sea portion of tours was increased to equal that of the airlines.

At the present time the percentage level of commissions for booking sea passage is the same as that paid for booking air travel, 7 percent for point to point bookings and 10 percent for tours. But as we pointed out in our previous opinion in this proceeding, the effective level of commission for sea passage is less because the many unique arrangements which must be made when booking sea passage consume three to four times as much of the agent's time as is spent booking air travel. Many potential travelers (the record shows somewhere between 15 and 60 percent) come to travel agencies undecided as whether to go by air or sea. The travel agent is, of course, in a position to influence such a traveler's decision. As the Examiner found there is no question but that there is "an economic advantage . . . to the agent in selling air transportation instead of steamship passage. . . ." Thus, while we do not mean to

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imply that the agent in this situation is unmindful of the traveler's interest, he, the traveler, is nevertheless confronted with an agent whose economic self-interest would make him desire that the client chose air travel rather than sea travel. The record discloses no evidence that a specific traveler has been persuaded to air travel against his desires or to his disadvantage. But this is not surprising and such a showing in our view is not necessary to a disapproval of the unanimity rule. Any such testimony by an agent would inevitably place him in an unfavorable position with his steamship employers.⁴ As a consequence of this dilemma, the record reveals a "definite tendency" on the part of agents to push air over sea travel in such cases.⁵

⁴ An example of this unhappy dilemma is found in the following testimony excerpted from the record.

"... [Agent] Q. Would it be fair to say that primarily in recommending whether a patron go by sea or by air you try to find out what he really wants to do most? A. That's right.

* * *

"Q. And not necessarily your own pecuniary profit? A. Well, both things are considered

* * *

"We walk a tightrope, let's say. We have the profit motive."

⁵ See the following statement by Ralph Edell, conference appointed travel agent:

"Q. What is your personal policy regarding potential clients who do not manifest a particular desire to go to Europe either by plane or ship? A. There is no policy involved, but if it is easier to sell someone an air line-ticket and if it is a tour where you make more money, there is a definite tendency to sell air travel.

"Q. Is it in fact more difficult and does it take more time to sell a steamship ticket than an air ticket? A. We would estimate generally speaking three times as long overall."

[continued on next page]

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Since May of 1956 the agents have actively sought increases in the general level of commissions. They were told by the representatives of the conference members that the difficulty in securing unanimity of the membership prevented any increase in commissions.

The Operation and Effect of the Tying Rule Provision in Agreement No. 120

The Trans-Atlantic Passenger Steamship Conference began operation in 1929 with the approval of Agreement No. 120 by a predecessor agency. The tying rule has been a part of the agreement since 1933 and has never been amended. The conference is headquartered in New York and its membership comprises all of the lines operating regular passenger vessels in the trans-Atlantic trade and some lines operating freighters which can accommodate up to 12 passengers. These lines carry about 99 percent of all of the passengers traveling by sea between the United States and Europe. The remainder of the passenger traffic is handled by nonconference lines operating freighters which can carry a limited number of passengers. Like the conference lines, they must rely upon the travel agents for passenger bookings.

The tying rule is found in Article E(e) of Agreement No. 120 which provides:

In this regard the Examiner stated, "... The record itself does not establish precise data on the extent of this [diversion] because it is not the sort of activity one would volunteer to disclose in detail, but it is clear that this practice is prevalent enough to constitute a substantial competitive disadvantage for the shiplines and an interference with a free and objective choice between the two modes of transportation by potential travelers."

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(e) *Sub-agencies Selling Tickets for Non-Member Lines*—A sub-agency shall be prohibited from selling passage tickets for any steamer not connected with the fleets of the member Lines for which it has been duly appointed or from representing in any capacity any steamship company operating such a steamer, if such steamer is operating in any competitive trans-Atlantic trade (unless written permission to do so is first obtained from the member Lines), or acting or representing itself as agency for, or as entitled to do business with any member Line it does not represent by regular appointment. This rule shall not prevent any sub-agent from booking for any United States Government Line.

The record contains the admission by respondents that the tying rule is intended to eliminate nonconference competition. Both the conference and the agents treat the rule as an absolute prohibition on the sale of nonconference passenger transportation, and agents have lost some prospective bookings because the rule prevented them from selling nonconference passage desired by the traveling public.

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Discussion and Conclusions

The briefs of the parties in this proceeding contain widely differing interpretations of the Courts' opinion remanding this case to us. Respondents on the one hand contend that the remand was for the limited purpose of finding or specifying additional *facts* demonstrating that both the unanimity rule and the tying rule violate one of

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the standards of section 15. According to respondents' reading of the decision we are precluded from "rearguing . . . questions already decided by the Court . . ." Thus, any expansion of our previous discussion as to why the already existing facts of record dictate disapproval of both rules under section 15 is, according to respondents, prohibited by the remand. Hearing Counsel and ASTA take precisely the opposite position.

We do not find any such restriction in the Courts' opinion, nor do we read the opinion as precluding us from expanding and clarifying our perhaps too brief discussion of the law, nor even from disagreeing with the Court where the clear intent of Congress and our own experience and best judgment dictate. From our reading of the opinion we are sure the Court would welcome such an approach and because we read the Courts' opinion this way nothing need be said about the powers of an administrative agency when a proceeding has been remanded to it by a court.

Section 15 of the Shipping Act exempts steamship conferences and other anticompetitive groups from the anti-trust laws when and only so long as the agreements establishing such groups are approved by us under that section, *Carnation Company v. Pacific Westbound Conference*, No. 20, Supreme Court October Term, February 28, 1966. Section 15 further provides that:

The Commission shall by order, after notice and hearing, disapprove, cancel or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory as between carriers, shippers,

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exporters, importers or ports or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this Act, and shall approve all other agreements, modifications or cancellations . . .

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In deciding whether continued approval should be allowed the unanimity and tying rules they must be examined in the light of the four criteria enumerated in section 15. Before applying these criteria to the individual rules in question a word about our general powers and responsibilities under section 15 would seem appropriate.

In determining whether to approve initially or to allow continued approval of an agreement under section 15 we are called upon to reconcile, as best we can, two statutory schemes embodying somewhat incompatible policies of our country—the antitrust laws, designed to foster free and open competition and the Shipping Act which permits concerted anticompetitive activity which in virtually every instance, if not unlawful under the antitrust laws, is repugnant to the basic philosophy behind them. While it is valid to say that the Congressional policy is that of encouraging or at least allowing the conference system in the steamship industry it is less than valid to contend that this represents a complete and unqualified endorsement of the system. One committee of Congress, after a recently conducted and exhaustive investigation of monopoly problems of the steamship industry concluded:

The Shipping Act of 1916 has . . . constituted a cornerstone of American maritime policy for almost half

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a century. It rests upon the assumption that the prosperity of our foreign commerce and the maintenance of a strong and independent merchant marine can best be secured through strict administrative surveillance of shipping conferences, agreements, and operations, insistence upon fair play and equal treatment for shippers large and small, protection of cargo and ports against unfair discrimination, and prevention of practices designed to eliminate or hamper independent carriers. (The Ocean Freight Industry, Report of Antitrust Sub-Committee, House Committee on the Judiciary, H. Rept. No. 1419, 87th Cong. 2d Sess., page 381, often referred to as the Celler Report.)

One needs only a hasty review of the history of the Congressional investigations and agency reorganizations under the Shipping Act, the most recent of which created the present Commission, to conclude that the experience under

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the Shipping Act has been a good deal less than satisfactory at least from Congress' standpoint.*

The task of reconciling the desire to preserve open competition with section 15's exemption from the antitrust laws

* In this regard "a history of prior approvals" no matter how long, may be an indication of nothing more or less than a failure to scrutinize operations under the particular agreement, which failure may or may not have been justified in the particular case. (See Celler Report, Chap. XI, The Federal Maritime Board—A Study In Desultory Regulation.) In any event the difficulties encountered by the member lines under the unanimity rule far outweighs any prior approval of it. Moreover, a prior approval under section 15, no matter how long ago granted, may not be converted into a vested right of continued approval simply because the parties to the agreement desire continued approval.

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which Congress has entrusted to us is, at best, a delicate one and difficult of discharge with precision.

The determination to approve or to allow continued approval of an agreement requires, on the one hand, consideration of the public interest in the preservation of the competitive philosophy embodied in the antitrust laws, and, on the other, a consideration of the circumstances and conditions existing in the particular trade in question which the anticompetitive agreement seeks to remedy or prevent. Thus, before we legalize conduct under section 15 which might otherwise be unlawful under the antitrust laws, our duty to protect the public interest requires that we "... scrutinize the agreement to make sure that the conduct thus legalized does not invade the prohibitions of the antitrust laws any more than is necessary to serve the purposes of the regulatory statute." *Isbrandtsen Co. v. United States*, 211 F. 2d 51, 57 (C. A. D. C. 1954); cert. denied *sub nom. Japan-Atlantic & Gulf Conf. v. U. S.*, 347 U. S. 990.

Section 15's authorization of agreements "pooling or apportioning earnings," for instance, does not dictate approval simply because such an agreement is filed and approval is desired by the parties to the agreement. The parties seeking exemption from the antitrust laws for their agreement must demonstrate that the agreement is required by a serious transportation need, or in order to secure important public benefits. Otherwise, and whatever

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may have been the policy of our predecessors, it is our view that the public interest in the preservation of competition where possible, even in regulated industries, is unduly offended, and the agreement is contrary to that

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interest within the meaning of section 15. *Mediterranean Pools Investigation*, F. M. C. Docket No. 1212 served January 19, 1966. *California Stevedore & Ballast Co. v. Stockton Port District*, 7 F. M. C. 75 (1962). This is equally true where the agreement in question has received prior approval and the determination to be made is whether to allow that approval to continue unmodified.¹ Disapproval of an agreement on this basis is not grounded on any necessary finding that it violates the antitrust laws but rather because the anticompetitive activity under the agreement invades the prohibitions of the antitrust laws more than is necessary to serve the purposes of the Shipping Act and is therefore contrary to the public interest.² The foregoing, in our view, constitutes the basic policy to be applied in determining whether to initially approve or to allow continued approval of any section 15 agreement. With this in mind we proceed to a consideration of the rules in question.

The Unanimity Rule

Respondents begin their argument for approval of the unanimity rule by urging that the proper context for our consideration of the rule was that framed by the Courts' opinion remanding the case, wherein it was noted that,

... our country has adopted a policy in the international transportation field, of encouraging, or at least

¹ For a similar construction of section 412 of the Federal Aviation Act which was modeled after section 15 see *Local Cartage Agreement*, 15 C. A. B. 815 (1952); *North Atlantic Tourist Commission Case*, 15 C. A. B. 225 (1952); *Six Carrier Mutual Aid Pact*, 29 C. A. B. 168 (1959).

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allowing United States carriers to participate in steamship conferences, and to be governed by unanimity in respect of matters covered by conference agreements, barring disapproval under the standards prescribed by [section 15]. . . .

We have already noted that Congressional allowance of the conference system was and is conditioned on the subsection

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of conferences, agreements, and operations under such agreements "to strict administrative surveillance," to insure fair play, equality of treatment and protection from discrimination.⁸ As to the Congressional policy of encouraging or at least permitting carriers "to be governed by unanimity in respect of matters covered by conference agreements," the Court of Appeals on remand to us footnoted a statement made by the then Chairman of the Civil Aeronautics Board in an article entitled the *Future of the International Carrier*, appearing in *Flight Forum* 7 (Sept. 1964), wherein he said:

IATA [International Air Transport Association, an organization somewhat similar to the Conferences presently before us] will continue to be the machinery for developing fares and rates. . . . This will be true whether or not the unanimity voting rule continues to apply as it has in the past. This rule, originally adopted and insisted upon by the United States to protect each carrier's right of individual action, ad-

⁸ See also in this regard the Alexander Report, H. Doc. No. 805, 63rd Cong., 2d Sess. 1914, Vol. 4, page 418, where the Committee stated its belief ". . . that the disadvantages and abuses connected with steamship conferences . . . are inherent, and can only be eliminated by effective government control"

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mittedly has its deficiencies. However, I am inclined to conclude these are less than those which would stem from a form of majority vote. (Bracketed material the Court's.)

Unanimity in respect of matters under agreements of international air carriers may well be the policy of the United States, but we do not find such to be the policy which governs water carriers under section 15 agreements. Additionally, it would appear that it was not an unqualified unanimity which received this country's encouragement for air carriers. For in *IATA Conference Resolution*, 6 C. A. B. 639 (1946) the proceeding in which the Civil Aeronautics Board approved the IATA resolution authorizing international air carriers to fix rates in concert and the one apparently discussed in the statement quoted above, the Board, after observing that unanimity was necessary to insure preservation of the American air carrier's right of individual action, said at page 645:

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It is further understood that it is not intended that a rate established by a conference agreement thereafter can be changed only by unanimous action. Such a requirement would enable a single carrier to freeze the rate structure, and would create an intolerable situation.

Moreover, the CAB apparently reserved unto itself the power to disapprove any rate fixed by agreement under the IATA resolution.*

* We note with interest that the maximum levels of agents' commissions paid by airlines, which are also apparently fixed by unani-

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Our problems under the Shipping Act would appear quite different from those of the Civil Aeronautics Board under the Federal Aviation Act, 1958. Steamship conferences are not required to submit their individual rates and fares to us for our approval. Indeed, it was not until 1961 that conferences were by statute required to file their rates with us. Whatever may have prompted a policy of encouraging or allowing unanimity in international air transportation, such is not in our view the policy of this country in international transportation by sea. In the Senate Report which accompanied H. R. 6775, the bill which became P. L. 87-346, a recent comprehensive amendment to the Shipping Act, the Senate explained its failure to enact legislation on voting requirements in section 15 agreements in the following way:

And a third matter which, it seems to us, should be handled by Commission rule or regulation, is one which is not limited to the question of dual rate contracts but rather Commission approval of section 15 agreements. For some time shippers and shipper groups have been urging Congress to amend section 15 so that no conference agreement could be approved which on rate matters required more than a majority vote of the voting carriers. Because of the widely varying needs and membership of the many conferences serving ports of the United States, and because

mous vote appear to be subject to approval by the C. A. B. which has made it quite clear on any number of occasions that it will not approve a rate or commission resolution which is not limited in duration to "a reasonable period of time." *North Atlantic Tourist Commission Case*, 16 C. A. B. 225 (1952).

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of the detailed studies which should be made . . . before any such decision were reached we think it would be most unwise to legislatively mandate an answer. (S. Rept. No. 860, 87th Cong., 1st Sess. at page 15.)

Thus, far from encouraging unanimity for steamship conferences Congress has expressed doubt as to its worth in the conference system and has left resolution of the question to us to be settled by rule or regulation if we determine it necessary to resolve the issue on an industry-wide basis.

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The remainder of respondents' argument for approval of the unanimity rule may be summarized as follows: (1) the rule "is merely the procedure" by which the level of commissions is fixed and in the absence of a finding that the particular level is "unreasonably low" or "detrimental to commerce" the "procedure" may not be disapproved; (2) the fact that "the wishes of the majority may be blocked temporarily or in an extreme case even permanently" is not a sufficient reason to disapprove the rule under section 15; (3) our own statements in our previous report in this proceeding lead inevitably to the conclusion that "economic factors entirely beyond the control of respondents" and not the unanimity rule account for the trend away from sea travel, and (4) no other basis exists for disapproval.

ASTA on the other hand contends that the rule has caused detriment to commerce and injury to the public interest; represents an excessive and unwarranted invasion of antitrust principles and, since no justification or need for its continuation has been shown, should be and

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was properly disapproved. Hearing Counsel in a somewhat similar vein contend that the unanimity rule should be disapproved as contrary to the public interest and detrimental to the commerce of the United States because it has frustrated or delayed all attempts by the majority to raise commission levels, thereby keeping the steamship lines at a competitive disadvantage vis-a-vis the airlines, and because it encourages the travel agents' economic self-interest at the expense of the agents' duty to the public.

While it may be correct in one restricted sense to say that the rule is "merely the procedure" by which a given maximum level of commissions is fixed, it is entirely incorrect to conclude that the particular level fixed must be found unlawful before the "procedure" itself can be ordered modified. In dealing with the unanimity rule itself we are faced with a consideration as to what degree we will permit the respondents to go in rigidifying or circumscribing the flexibility of their operations under an anti-competitive agreement—a far different substantive deter-

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mination than one as to whether a given rate, fare, charge or commission fixed under a particular procedure is itself valid under the law. The former goes to what conditions in furtherance of the purposes and policies of the Act we will impose upon the continued enjoyment of antitrust immunity under an approved section 15 agreement. The latter goes to whether or not a given rate, etc. fixed under the procedures we authorize under such an agreement runs counter to the statute's prohibition against rates, etc. which are detrimental to our commerce. The one is not dependent upon the other.

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All the record need show is that the rule itself has resulted in activity unlawful under section 15. Indeed the record clearly shows that this rule, as implemented contrary to the considered business judgment of nearly all of the conference members, has worked to the detriment of the commerce of the United States.

As heretofore noted, the booking of sea passage takes three to four times longer than air passage for an agent to handle, consequently, the effective rate of commission on sea travel is much lower than on air passage. The recognition by the member lines of the diversion from sea to air caused by the lower rate of commission on sea bookings has long led the majority of the lines to attempt to solve the diversion problem by trying to increase the levels of commissions paid to their travel agents. As Cunard Line stated in its letter of February 15, 1951, urging an increase in the commission:

Evidence is mounting to confirm our belief that the higher rate of commission paid by the Air Lines on trans-Atlantic bookings is strongly influencing agents towards increasing their business for Air Services, and we feel that the Steamship Lines can only continue to disregard this fact to their detriment.

The unanimity rule clearly has had an effect inconsistent with the desires of most of the steamship lines to meet the air challenge. The "lack of unanimity" has on several occasions prevented the conference's subcommittee, which has the initial responsibility for commissions, from even

reporting the positions of the member lines to the prin-

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cipals, respondents' assertions to the contrary notwithstanding.

The subcommittee minutes for the meeting of October 1951 show that although "there was a majority in favor" of a commission increase, "it was not possible to reach unanimous agreement," and the matter was "deferred for consideration at the Statutory Meeting in March 1952." Again in June 1952 the subcommittee deferred the matter of commissions "for consideration at the meeting of Principals in October 1952." The subcommittee a third time deferred the matter of agents' commissions in June 1953.

While it may be true as an abstract proposition that any matter could be placed on the agenda by a member line, and that the matter of commissions was held "always in mind" by the principals, the facts remain that there is no instance in the record of action taken by the principals without strong concurrence by the subcommittee and that the present agents' commission is below the level advocated by a majority of the conference lines as long ago as March 1950.

If the subcommittee is as unimportant as petitioners claim, one is inclined to question the application of the unanimity rule to its deliberations and the necessity for unanimous accord by its members before any recommendation can be made to the principals. Moreover, it is of no significance that the principals have at times taken positions opposed to those of the subcommittee, for these have been in the nature of a watering down of actions favored by at least a majority of the lines. Nor is it any answer to say that had the lines really wanted to raise the commission they could have eliminated the unanimity rule, be-

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● cause elimination of that rule itself required unanimous vote under the conference agreement.

Respondents' references to conference consideration of commission levels "in virtually every year covered by the

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Commission's investigation" are not impressive. There appear to be few years in which the matter of commissions was in any real sense "considered," due no doubt to the stultifying effect of the unanimity rule and the necessity for subcommittee approval as a condition precedent to conference action. In fact, the Conference Minutes indicate only six instances in which the principals considered the problem of commission levels since March 1950: Minutes of Meeting March 1951; March 1952; Minutes of Meeting May 1956; Minutes of Meeting March 5, 1953; Minutes of Meeting October 1953; Minutes of Meeting of May 3, 1960. Moreover, the meeting of October, 1953 related to an interpretation of the previously set commission level in reference to prepaid commissions.

The effect of the rule on the deliberations of the principals is thus clearly shown by the many instances in which the rule defeated the subcommittee's referral of, or prevented it from making recommendations to, the principals on the matter of commission.

Respondents' contention that "the record fails to show a single example of the unanimity rule frustrating a desire of a majority of the lines as authoritatively expressed by the principals," is not accurate. The principals' meeting of May 3, 1960, shows such an instance. Moreover, the principals' meeting of February-March, 1956, shows a case in which the principals were unable to act because of the action of one line. As has been noted, there is no confer-

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ence minute on the matter of commissions for this meeting. Determining the effect of the unanimity rule upon actions of the principals, as we pointed out, has been rendered difficult because of the conference's failure to keep complete minutes of its meetings and to file them with us. Votes of the principals were neither taken, recorded, nor filed with the Commission, although the approved agree-

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ment of the conference required it to furnish the Commission with full records of its activities.¹⁰ The conference's own failure to keep and provide the requisite records has caused whatever evidentiary sketchiness exists in this proceeding as to the effect of the unanimity rule, and the responsibility for that failure cannot be shifted to the Commission.

The unanimity rule blocked attempts by a majority of the lines to change the general commission level for at least 6 years and the tour commission level for over 2½ years. The general commission level was still below 7½% advocated by a majority of the lines thirteen years before 1963, the last year of record in this proceeding. Since the increase to 7% in 1956, the record shows several attempts to increase the commission level. The logical inference to be drawn from all of this may well be that the present level of commission is still, because of the unanimity rule, frozen at a level undesired by a majority of the conference members. The fact, however, that the record does not

¹⁰ Article 9(j) of Ex. 2, provides that "copies of all minutes and true and complete memoranda record of all agreed action which is not recorded by minute shall be furnished promptly to the Governmental agency charged with the administration of section 15 of the U. S. Shipping Act, 1916, . . ."

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affirmatively show whether or not a majority of the conference members would decide now to raise the commission level is irrelevant. If the rule has been shown to operate to the detriment of the commerce of the United States, to wait until there is evidence that it again operates in that fashion before the rule is outlawed would be to suggest that illegal actions cannot be disapproved once they may have ceased. This reasoning would destroy the purpose of regulation.

The evidence of the blocking of the desires of a majority of the member lines to achieve their goal present in this proceeding is a sufficient reason for declaring the unanimity rule detrimental to the commerce of the United States.

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Conference procedures must be reasonably adapted to the goal of conference activity, namely, the voluntary effectuation of the desires of the member lines in achieving the concerted action which they, within the limits of the law, feel is appropriate. An essential factor in achieving this goal is, of course, sufficient flexibility under the conference agreement to alter action which the members may have once found desirable but later appears to thwart their desires. At one time 6% appeared to the members of the conference to be an appropriate maximum commission level to be paid to their agents. For at least some six years, however, this no longer seemed to be the case, so far as a majority of these lines were concerned. The level was finally raised to 7%. It was still below the level advocated by a majority of the lines 13 years before and may well be, as noted above, below the level which they now desire.

Outlawing of unanimous voting requirements, because they failed voluntarily to effectuate the desires of the con-

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ference members, has often occurred.¹¹ A predecessor of this very Commission had occasion to examine an agreement which contained a unanimous voting requirement which enabled one party to prevent changes in port differentials desired by the other parties. Such effect of the unanimity rule was there said to defeat the purpose of the conference—the carrying out of the voluntary action of its members, “[W]hen a rate or rule is once adopted and one party consistently and selfishly refuses to cast its consenting vote which would remove or change that rule or rate the conference to all intents and purposes ceases to be voluntary.”¹² The agreement, with its unanimity provision, was thus declared unlawful as being “unfair as between carriers” and “detrimental to the commerce of the United States.”

Such results, moreover, have not been limited to situations where the desired freezing effect was caused by a

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veto. In *Status of Carloaders and Unloaders*, 2 U. S. M. C. 761, 774 (1946), a voting rule “providing that no change shall be made affecting rates unless agreed to by not less than 75 percent of water carrier members” was declared unlawful as “unfair as between such carriers and other members” and “detrimental to commerce.”

In the instant proceeding evidence exists of both veto usage and blocking of the desires of a strong majority of the member lines for many years. Such results are clearly

¹¹ We have already observed that a sister agency has had occasion to review the freezing of the rate structure caused by a unanimity rule and has condemned such freezing as “an intolerable situation.” *IATA Conference Resolution*, *supra*, at 645.

¹² *Port Differential Investigation*, 1 U. S. S. B. 61, 72 (1925).

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detrimental to the commerce of the United States as inimical to the very nature of the conference as a voluntary association and unfair as between the majority of carriers which desired the change and those few who blocked it.¹³ For these reasons the unanimity rule must be declared unlawful under section 15.

There are, moreover, additional reasons why the unanimity rule must be disapproved. The unanimity rule has resulted in maximum level of commissions which places the booking of steamship travel at a competitive disadvantage with airline travel. The record clearly shows, contrary to respondents' contention, it is not economic factors entirely beyond their control that have caused this competitive disadvantage but the unanimity rule itself.

There are two economic factors appearing in the record: (1) the speed and seating capacity of the new jet aircraft which result in reduced travel time and added convenience, extensive advertising by airlines and certain other factors inherent in air travel and (2) the additional time which must be spent by the travel agent to book sea passage—the record shows that it takes three to four times as long to book sea passage as it does to book air passage. The former is admittedly not the fault of the unanimity rule, but the latter is an "economic factor" which the substantial evidence of record indicates that but for the unanimity rule could have been overcome by respondents themselves.

¹³ The fact that the record is unclear as to whether or not the same carriers consistently blocked the desires of the majority is not important. What is important is that there existed a consistent freezing of commissions at a level which was always contrary to the wishes of some majority.

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The purely superficial equilibrium between commissions for booking air and sea passage (both now stand 7 percent for point-to-point bookings and 10 percent for tours)

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would, the record indicates, have been replaced by the majority of conference lines by a higher "percentage level" of commissions for sea passage which, at the very least, would have reduced the disparity in the respective "effective levels" of commissions. And again, the record before us indicates that until this much is done, the economic self-interest of travel agents will serve to foster the definite tendency to sell air passage over sea passage—a situation clearly contrary to the public's interest in the Shipping Act's declared purpose of "encouraging and developing . . . a merchant marine adequate to meet the requirements of the commerce of the United States . . ." with foreign countries. Thus, our responsibility for protecting that interest requires that we not grant continued approval to anticompetitive conduct which tends to reduce the effectiveness of our merchant marine, otherwise we would fail in our duty of "strict administrative surveillance over conferences" to insure (1) the continued prosperity of that portion of our foreign commerce placed in our charge and (2) the maintenance of a strong and independent merchant marine. Moreover, the traveling public has a right when selecting a mode of transportation to deal with an agent as free as possible from any motivation to influence that choice because of economic self-interest in booking air travel. Since the unanimity rule creates the situation which tends to foster airline bookings at the expense of potential steamship bookings it is detrimental to

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the commerce of the United States within the meaning of section 15.

Significantly, respondents do not here on remand urge a single statutory aim or purpose which is fostered or served by the unanimity rule, nor do they point to a single important public benefit which is secured by the rule.¹⁴

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The Court noted in footnote 7 of its opinion, that the Examiner found that in view of the small minority of American-flag lines in the conference, the unanimity rule was "of substantial value to the American-flag lines" preventing "travel agents from playing one line against another." This is apparently so because "when all lines participate in the selection of rates of commission, no line is in a position to say that it is favoring agents more than another." (Initial Decision of Examiner Seaver at page 40.) Taken at face value this statement is, at best, confusing. It would seem obvious that all lines can "participate in the selection of rates of commission" whether unanimity or a simply majority is required to set the rate. It would seem equally obvious that whether or not unanimity is required, any individual line may, if it chooses to do so, tell an agent that it voted in favor of an increase,

¹⁴ Nothing demonstrates that the unanimity rule is necessary to preserve or encourage the right of American flag carriers to take independent action as was the case of unanimity under IATA see pages 12-13 *supra*. Indeed, lack of unanimity in IATA leaves the individual carrier free to initiate its own rates (IATA Traffic Conference Resolutions, 6 C. A. B. 639, 645), while under the conference agreement here lack of unanimity serves to freeze the level of commissions and does not permit the individual carrier to initiate its own increases in commissions. Moreover, the rule places the power of potential veto in the hands of each member, six of whom do not even serve American ports.

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thus, indicating that it is "favoring the agents more than another" which presumably voted against the increase. We find this reasoning somewhat less than persuasive, and far short of constituting a showing that the rule is required by some serious transportation need, or necessary to secure important public benefits.

The impact of the unanimity rule is clear from the record which shows that since the seven percent commission level finally adopted in 1956 no further increases were made, at least as of 1963, the last year of record here, and that the level of commissions in that year was lower than that actively sought by the majority of the lines 13 years earlier.

The unanimity rule has prevented a majority of the members of ASPC from raising the levels of travel agents' commission and has periodically worked to freeze commissions at levels which are effectively lower than commissions paid by air lines to travel agents when booking air passage. This disparity in the effective level of commissions for booking air and sea passage fosters a tendency on the part of the travel agent to push the sale of air travel which in turn deprives the undecided traveler of his right to deal with an agent free of any motivation based on economic self-interest. We find this situation detrimental to the water-borne foreign commerce of the United

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States in that it fosters the decline in travel by sea and contrary to the public interest in the maintenance of a sound and independent merchant marine.

Moreover, from the substantial evidence of record it is reasonable to conclude that but for the unanimity rule the majority of the member lines of ASPC would have

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increased agents' commissions, and it is reasonable to conclude from the record before us that an increase would have enhanced the competitive position of the steamship lines. Had there been a showing that the rule was required by some serious transportation need, or necessary to secure an important public benefit, or in furtherance of some purpose or policy of the statute, we might have required more before disapproving the rule.¹⁵ But, in view of our responsibilities under section 15, disapproval of the rule is required in order to protect the public interest against an unwarranted invasion of the prohibitions of the anti-trust laws, since it has not been shown to be necessary in furtherance of any valid regulatory purpose under the Shipping Act.

Because of its effect noted above, the use of the rule must be outlawed in deliberations by any group having final or recommendatory power over levels of commissions to travel agents. Accordingly, Article 6(a) of Agreement No. 7840 must be modified to remove the unanimity requirement, and Article 3(d) must be modified to show that it does not apply to any deliberations by recommending or enacting bodies on levels of agents' commissions.

The Tying Rule

Respondents insist that continued approval must be given the tying rule since section 15 will not allow disapproval merely because it "runs counter to antitrust principles" or has not been shown "necessary" to protect respondents

¹⁵ *Mediterranean Pools Investigation*, *supra*. See also *Six Carrier Mutual Aid Pact*, *supra*.

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from outside competition—the only bases which may be advanced on the record in this proceeding, argue respondents.

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The record in this proceeding shows that approximately 99 percent of all Trans-Atlantic steamship passengers are carried by conference lines. In 1960, not an unusual year, approximately 80 percent of all Trans-Atlantic passenger steamship bookings made in this country, other than on cruises, were sold by appointed agents. Both the agents and respondents treat the tying rule as an absolute prohibition against the sale of non-conference passage. The only vessels whose operators are not members of the conference are freighters which can carry a limited number of passengers. These lines, like the conference lines, are dependent upon travel agents for the sale of ocean transportation. Thus, as a consequence of the tying rule, the travel agents have been prevented from performing their function of selling ocean transportation, passengers have been denied the services of travel agents precluded from booking passage upon the means by which they preferred to travel, and the nonconference lines have been denied access to channels which control some 80 percent of all Trans-Atlantic passenger business. The fact that there are conference freighters capable of carrying passengers who wish to travel to Europe is unimportant here.

The important questions here are: should prospective passengers be denied the right to utilize the valuable services of agents in fulfilling their desires to travel on non-conference vessels; should agents be denied the right to book them by the means of their choice, and should non-

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conference lines be denied the use of agents whom they, like the conference lines, must depend for the sale of ocean transportation. The answer to these questions must be no.

Respondents admit that the purpose of the tying rule is to eliminate outside competition, and that purpose has obviously been achieved.¹⁶ Whether or not the rule resulted in reducing nonconference competition to its present minimal amount, it is plain that it keeps it there. The

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tying rule imposes restraints upon three groups not parties to the conference agreement, the agents, the nonconference carriers and the traveling public. The record here demonstrates that these restraints have operated against the best interests of all three of these groups. Once this was shown, it was incumbent upon the conferences to bring forth such facts as would demonstrate that the tying rule was required by a serious transportation need, necessary to secure important public benefits or in furtherance of a valid regulatory purpose of the Shipping Act.

No convincing arguments were advanced. Respondents, in the light of their almost complete monopolization of the trade, could hardly make the claim that the rule is necessary to protect the conference from outside competition, and has in fact admitted that it is not.

¹⁶ The Supreme Court has indicated that restraints on third parties are to be viewed with extreme distrust. It has been held that the "Freedom allowed conference members to agree upon terms of competition subject to Board approval is limited to the freedom to agree upon terms regulating competition among themselves," . . . and that "Congress struck the balance by allowing conference arrangements passing muster under 15, 16, and 17 limiting competition among the conference members while flatly outlawing conference practices designed to destroy the competition of independent carriers." *Federal Maritime Board v. Isbrandtsen Co.*, 356 U. S. 481, 491, 492-3 (1958).

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The conference, accordingly, attempts to justify the tying rule by stating that it is necessary to maintain conference stability. In contrast to this bald assertion, however, the Caribbean cruise trade operates efficiently without either rule or conference. While conditions in the Caribbean cruise trade may indeed be somewhat different, the absence of both conference and rule therein is enough to show that neither is self-evidently necessary for trade stability.

Respondents finally point to the services performed for the agents as cause for continued approval of the rule. Although it is true that the conference does perform services for the agents through its bonding and other selective activities, these services are paid for by the agents through annual fees. Any additional promotional services performed by lines are made on a line-by-line basis and ordinarily require matching contributions by the agents. In light of the facts that many of these services are performed on an individual line basis, rather than as a conference activity, the services are paid for by the agents, and the agents are not the lines' employees but deal at arm's length with them, as well as the air lines, the conference, although entitled to exercise some control over agents' activities, has made no showing that it is entitled to maintain a complete foreclosure over agents' services for non-conference lines.¹⁷

¹⁷ Of interest in this regard is the recommendation of the Anti-trust Subcommittee of the House Judiciary Committee appearing at page 388 of the "Celler Report," "The Federal Maritime Commission should prohibit conferences from regulating the activities of agents. Passenger conferences should not be permitted by the Commission to regulate the business activities of their ticket agents."

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The tying rule of the TAPSC operates to the detriment of three relevant portions of the commerce of the United States, inasmuch as it is an unjustified restraint upon the activities of travel agents which prevents them from selling ocean transportation. It is detrimental to the interest of the agents, one part of our commerce, because it denies them the right to book passengers who desire to travel by nonconference vessels by the means they desire and thus live up to their duty as agents. It is detrimental to the interests of the nonconference carriers, another part of our commerce, because it denies them the use of agents upon whom, they, like the conference lines, must depend for the sale of ocean transportation. Lastly, it is detrimental to the interests of the traveling public, still another part of our commerce, in that it denies prospective passengers the right to utilize the valuable services of agents in fulfilling their desires to travel on nonconference vessels. Nothing has been brought forward which, in spite of these detrimental consequences, could justify the rule. Therefore, it must be disapproved under section 15 as operating to the detriment of the commerce of the United States.

Additionally, the tying rule is unjustly discriminatory as between carriers, within the meaning of section 15.

In *Pacific Coast European Conf.—Payment of Brokerage*, 5 F. M. B. 225 (1957), our predecessor, the Federal Maritime Board, declared unlawful, under section 15 of the Shipping Act as “unjustly discriminatory as between carriers” a provision which had the effect of prohibiting payment of “brokerage” by conference lines to any forwarder-broker who served nonconference lines. The nonconference

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lines depended upon the forwarder-brokers for the majority of their cargoes, and the conference lines carried most of the cargo in the trade. The purpose of the prohibition was admitted to be the reduction or elimination of nonconference competition. The Board concluded that the provision in question "would foreclose a nonconference line from obtaining cargoes through forwarders in this trade, and shippers who desire to ship nonconference in this trade would be deprived of the services of freight forwarders." It therefore found the provision to be *prima facie* unjustly discriminatory as between carriers and shippers and struck it down as it found nothing in the record which would justify it.

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Here the admitted intent of the tying rule is to eliminate nonconference competition. Agents have lost prospective bookings because the tying rule prevented them from making nonconference bookings desired by the traveling public. And nonconference lines have been denied even access to channels controlling 80 percent of the business. We think the reasoning in the *Pacific Coast* case is persuasive, and we find the tying rule to be unjustly discriminatory as between carriers. It requires disapproval under section 15.

Finally, the tying rule is contrary to the public interest because it invades the prohibitions of the antitrust laws more than is necessary to serve the purposes of the regulatory statute and there has been no showing that the rule is required by a serious transportation need or is necessary to secure important public benefits.

On the basis of the foregoing we conclude that the unanimity rule and the tying rule are detrimental to the commerce of the United States and contrary to the public

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interest, that the unanimity rule is unfair as between carriers, and that the tying rule is unjustly discriminatory as between carriers, within the meaning of section 15, and both rules should be disapproved under that section.

An appropriate order will be entered.

Vice Chairman John S. Patterson, dissenting:

INTRODUCTION

The Commission has been directed by the United States Court of Appeals for the District of Columbia Circuit either to make supporting findings which adequately sustain the ultimate findings that the unanimity rule and the tying rule in an agreement of a conference of common carriers by water operate to the detriment of the commerce of the United States, or, if no such finding can be made on the record, approve the agreement containing these two rules.

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The majority's report responds to the Court's order by deciding that the direction to make supporting findings does not require supporting facts, but permits supporting rationalizations which expand and clarify a "perhaps too brief discussion" and even "disagreeing with the Court where . . . our own experience and best judgment dictate."

Two introductory comments are needed. *First*, I believe that findings have always been understood to refer to the end-product of looking over, locating, or finding and then assembling in summary form particular facts thought to be most relevant from a record of miscellaneous verbal testimony and written information collected by an Ex-

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aminer in an agency proceeding.¹ In a way our task is very simple once the facts are assembled. All we have to do is marshal the facts into findings and then show how the findings conform to or vary from what the statute requires by means of reasoning that will appeal to everyone, including the Courts, as convincing. I doubt if the Court of Appeals expected anything more complicated than this, and certainly not substitution of a long discussion for a "perhaps too brief" one. *Second*, my reading of Judge Washington's opinion on behalf of the Court of Appeals discloses nothing with which to agree or disagree, contrary to the majority's assumption. We are not required to argue with the Court of Appeals, but only to state our own case as reasonably

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as possible. The Judge simply gave examples to illustrate why he had concluded the statutory requirements had not been linked with asserted facts and expressed the difficulties he was having in understanding the report, and then gave us the opportunity to remove his doubts by findings based on facts, not arguments.

The majority presents, in the name of facts, conjecture and opinion taken from the record (e.g., "the considered business judgment of nearly all the conference members"). Conjecture and opinion do not become fact by being asserted by witnesses or by attorneys and recorded in docketed papers. I might agree that fostering a tendency as shown by the record is possible, and that preventing of changes has occurred. I do not agree there are record facts

¹ *Morgan v. United States*, 298 U. S. 468, 480 (1936). Possibly informed speculations in rate cases and established rules of law or ethics are acceptable as facts, but there is no need here for this type of finding.

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to sustain the ultimate finding there is discrimination between carriers, or the public interest suffers, or there is detriment to commerce just because selfish tendencies are fostered or water carriers have lost sales and the prevented changes are the real causes. If there are any facts in the 2618 pages of transcript and 141 exhibits, of the type I consider needed to connect the rules with the selfishness and the losses and with discrimination or detriments to commerce or contrariety with public interest, such facts have escaped my review. I do not agree that the alleged harm to some elements of commerce, without more evidence, is a detriment to commerce, nor that such harm is automatically against the public interest.

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By my dissent in our first review of this proceeding, I concluded on the record before me that approval should be given, pursuant to section 15 of the Shipping Act, 1916, as amended (Act), to the carriers' agreements containing the unanimity voting rule in connection with regulating the level of travel agents' commissions and the rule requiring agency contracts to contain an obligation to sell only passenger tickets issued by the conference carriers and prohibiting sale of passenger tickets issued by competing carriers.

The reasons for my renewed dissent are:

1. Instead of making supporting findings of factual evidence from the record, the majority has only developed supporting rationalizations based on conjecture and opinion. In my opinion, the Court's instructions have not been complied with.

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2. The rationalizations do not supply the evidence and reasoning needed to relate record information to nonconformity with standards of disapproval of agreements in the second paragraph of section 15 of the Act.

DISCUSSION**1. Lack of evidentiary findings.**

There is just as much lack of evidence now as when we made the decision in the same Docket No. 873, reported in 7 FMC 737 (1964). There is still no proof in the form of evidence summarized in findings that the agreements may be found:

(a) to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors;

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(b) to operate to the detriment of the commerce of the United States;

(c) to be contrary to the public interest; or

(d) to be in violation of the Act.

It has been conceded the reopened proceeding was limited to the filing of briefs and oral argument by the parties, i.e., no new evidence was gathered by the Examiner. As a result of examining the old papers and listening to new arguments, the majority has developed a new rationale.

2. The rationale of the majority, as I interpret it, is as follows:

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a. The unanimity rule has prevented changed commission percentages and "such results are clearly detrimental to the commerce of the United States as inimical to the very nature of the conference as a voluntary association and unfair as between the majority of carriers which desired the change and those few who blocked it".

b. The unanimity rule has resulted in a level of commissions "which places the booking of steamship travel at a competitive disadvantage with airline travel" and the record shows the rule, not economic factors, cause the disadvantage.

c. Until commission levels are raised "the economic self-interest of travel agents will serve to foster the definite tendency to sell air passage over sea passage", contrary to the public's interest of encouraging and developing the merchant marine.

d. The tying rule is detrimental to commerce and contrary to public interest because it prevents (1) travel

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agents from performing their function of selling ocean transportation; (2) passengers from obtaining services of agents if the agents are precluded from booking passage by the passengers' preferred means of travel; and (3) nonconference carriers from having access to "channels which control some 80 percent of all Trans-Atlantic passenger business". Harm to the three elements of commerce is equivalent to detriment to foreign commerce and against public interest.

The rationalizations of the majority are justified by what are thought to be the results in relation to the four

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section 15 tests referred to by the Court of Appeals. The resulting rules may be plausible and reasonable as stated and abstractly considered might be very good policy, but they achieve the status of an order changing respondents' rights only if they are associated with facts showing the results really will occur. If rules prohibiting unanimity or tying obligations are intended, section 4 of the Administrative Procedure Act must be followed. Reference is made to my dissent in this same Docket for my arguments indicating the claimed results are by no means certain and may be just the opposite of what is claimed.

Summarized, my arguments were that:

1. The unanimity rule controlling commissions resulted in no proven detriment to commerce because (a) passenger diversion may have other causes and (b) the percentage levels are only a transitory economic factor subject to competitive change by airlines.

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2. The tying rule resulted in no proven detriment to commerce caused by lack of competitive necessity for the rule evidenced by either (a) denial of competing services of nonconference carriers or (b) harmful effects on other carriers or (c) restraint on travel agents in violation of antitrust principles.

3. I agreed that certain rules concerning prior approval of business decisions of travel agents were against public policy.

There was no doubt in my mind that the unanimity and tying rules had prevented changes and had prevented

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certain ticket-selling services, but this result only showed the rules had been successful in doing what they were intended to do, not that they were unlawful by virtue of the mere fact of success. I might have been wrong. Judge Washington's speculations and examples may be wrong too. The different viewpoints must be resolved with more facts, not longer discussion. I don't want to rely on my own experience or best judgment unless supported by basic facts. I need the facts and must weigh them before I can rely on my own experience in solving a problem with which I have never before been confronted.

Certainly no one should, nor do I, expect a reviewing court to sustain my reasoning and ultimate conclusions without supporting facts just because as a Presidentially-appointed Commissioner, contributing competence and expertise in the carrying out of my duties, I say new standards of conduct are proper and that rules embodying those standards shall be applied to invalidate the agreement provisions, based solely on the dictates of my own experience and judgment, supported only by conjecture and opinion from a record.

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I hold that record deficiencies may not be replaced by such conjecture-supported findings as the unanimity rule is a detriment to commerce because it is effective in preventing increased commissions. What is needed, but totally lacking, in this particular case is record support sufficient to make findings of fact which show how the conference's rule blocking or preventing change in commission percentages is incompatible with prohibitions against detriments to commerce as a result of specified facts rather than opinions, speculations, or conjecture substantiated by

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a rationalizing process. The Commission may not rely merely on "the evidence of the blocking of the desires of a majority of the member lines to achieve their goal present in this proceeding" without intervening factual detail as sufficient reason for the flat conclusion that the unanimity rule is "detrimental to the commerce of the United States." A court has recently condemned this sort of reasoning. *U. S. Atlantic & Gulf/Australia New Zealand Conference v. FMC and USA*, USCA DC Nos. 19,637 and 19,704, June 30, 1966.

The deficiencies in using a rationalizing process to meet the requirements of the U. S. Court of Appeals for the District of Columbia on remand are the same as those pointed out to the Securities and Exchange Commission (S. E. C.) on remand by this same Court of Appeals in *Chenery Corp. v. Securities and Exchange Commission*, 80 U. S. App. D. C. 365, 154 F. 2d 6 (1946); reversed, *Securities Comm'n v. Chenery Corp.*, 332 U. S. 194 (1947). The issues were also before the Court of Appeals for the second time. An order holding certain financial transactions unlawful and approving a plan of reorganization of

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a holding company had been issued by the Commission. On petition for review the Court of Appeals held the order invalid, 75 U. S. App. D. C. 374, 128 F. 2d 303 (1942). On appeal the Supreme Court subsequently held as the Court of Appeals had held "that the Commission's order on this record could not be sustained" for want of supporting facts showing public harm and directed the Court "to remand the case to the Commission for further proceedings not inconsistent with its opinion" (id., p.8), *Securities Comm'n v. Chenery Corp.*, 318 U. S. 80 (1943). This action is what

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happened here except for the Supreme Court appeal. On rehearing before the Commission no new or additional evidence was adduced. The S. E. C. re-examined the problem, recast its rationale, reached the same result, and likewise reaffirmed its former order. The case again was appealed and the same Court of Appeals stated, referring to its prior review, and with exact relevance here, "we had then as we have now a case in which there is not one jot or tittle of evidence tending to contradict petitioner's declared purpose . . ." If the majority's report is subjected to another review, the Court will have the same problem described by Justice Groner as follows in reversing the order a second time:

"Certainly, a reasoned conclusion must be based on evidence, and may not be pitched alone on unresolved doubts, nor upon weaknesses or selfishness which the Commission believes is inherent in human nature. The construction advanced by the Commission would permit it to exercise a power of disapproval free of judicial review, and the notice and hearing required by the statute would become an empty form. The Commission, free of the inhibitions imposed by the particular facts, would be left to roam the widest possible area of authority influenced and impelled only by its own doubts.

"Thus considered, it is apparent that the Commission has made its present order without reliance upon such evidence or findings as would warrant our affirmance.

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"In laying down, as it does, a rule of fiat unassociated with the facts in this case, the Commission has strayed from the course laid out and charted by the opinion of the Supreme Court, and accordingly we must refuse to give it effect." 154 F. 2d 6 (1946) at p. 11.

The *Chenery* case was decided before the enactment of the Administrative Procedure Act on June 11, 1946, and we now have the latter Act defining even more precisely our decision-making responsibilities and separating our adjudication and rulemaking procedures.

The rationalizing problems and the rulemaking effect were the same as here:

- (1) no new evidence,
- (2) unresolved doubts,
- (3) human weakness and selfishness is relied on in the new rationale,
- (4) there is no showing how the conduct would be detrimental to public interest, and
- (5) there is a laying down of rules of fiat unassociated with the facts in this case.

The Supreme Court reversed the Court of Appeals, but did not invalidate these five elements of deficiency. The Supreme Court decided there were facts showing violation of fiduciary obligations through purchase of company securities by management during reorganization sufficient to sustain the order. The character of the conflicting interests, created by the program of stock purchases while plans

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for reorganization of a large multistate utility system were under consideration, was thought to influence adversely

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accomplishment of the objectives of the Public Utility Holding Company Act of 1935, where control by management whose influence "permeated down to the lowest tier of operating companies" was present. Conflict of interest as an ethical principle was used as a basis of decision. Ethical principles are frequently based on philosophy and become accepted through changes in public attitudes. Consequently, the principles are not susceptible of proof by evidence usually gathered in agency adjudications. The S. E. C. used such principles as findings to support its conclusions, so the Supreme Court was probably justified in not going behind the S. E. C. reasoning and insisting on evidence in this particular instance. The Supreme Court found the deficiencies of the first S. E. C. decision had been overcome. What we have to overcome by adverse facts is a long history of operations under the conferences' unanimity and tying rules without complaint of harm to carriers or disadvantage to the public. We may not rely on ethical considerations. We have to show with new facts how times have changed.

The standards of the Court of Appeals are still valid, and the majority's report does not accomplish what the S. E. C. report accomplished when it substantiated its order using the presence of conflict of interest.

The deficiency tests apply as follows:

- (1) The lack of new evidence is admitted.
- (2) When we say ocean carriers are at a competitive disadvantage because of commission levels or the public

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has a right to deal with agents free of motivation to influence choices of air or water carriers, we have only begun the analyzing process. The propositions only point the way to further inquiry to remove doubts. Unresolved are the questions of what carriers have been harmed by airline competition caused by passenger agent activity and how badly, and whether commission levels are the real cause of harm. Reference was made to Congressional "doubt" about how to proceed. The majority refers to a lack of evidence "that a specific traveler has been persuaded to air travel against his desires or to his disadvantage." What influence does changing passenger preference have on the disadvantage rather than competition? Have any travel agents disclosed a motivation to disfavor water carriers? What are the consequences of any deviation from the agents' duties to their water carrier principals by such motives? The real objection was said to be the "disparity in the effective level of commissions". This objection means the issue is neither the rule nor how the level got where it is. The rule may just as easily increase the disparity, and if the rule diminishes the disparity what proof is there the airlines won't retaliate with higher commissions? What effect do all these potential shifts have? The question is asked whether "prospective passengers should be denied the right to utilize the valuable services of agents in fulfilling their desires to travel on nonconference vessels" and is answered "no" as though the answer is so obvious as to prove all that is necessary. The question should be whether the denial of the right to utilize the

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valuable services of agents to fulfill desires to travel on nonconference vessels is a detriment to commerce or con-

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trary to public interest. We need facts to find out and to resolve doubts, and not just a "yes" or "no" answer.

Offsetting the claimed denial of rights of agents to serve and the traveling public to receive is a claim by the carriers to full loyalty of agents to the carriers as principals without conflicting interests to serve competitors. Where is the balance to be struck? Until we have more facts to show a direct relation between voting and between exclusive agency and detriments to commerce, we ought not to use speculation and personal or fictitious experience or "yes" or "no" answers to alter respondents' rights to managerial control over their business assured by the unanimity and exclusive-agency rules. Speculations and personal or fictitious experience do not resolve doubts by being asserted in the name of our own experience and best judgment.

(3) Human weakness and selfishness appear in the form of an attribution of "the economic self-interest of travel agents" to "foster the definite tendency to sell air passage over sea passage." There is no proof, but only the assumption based on personal experience about human greed and a desire to protect people from avaricious influences.

(4) An explanation of how conduct is related to detriments to commerce is not supplied by the speculative results said to have constituted detriments. In place of explanation, we have a statement that it is "clearly contrary

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to the public's interest" in the purpose of the Act to develop the merchant marine to let anything "foster the definite tendency to sell air passage", but we are not told how this result is achieved. It has to be assumed that any-

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thing that helps airlines hurts the merchant marine, but for all I know it may be a part of the public's interest not to hurt airlines by helping the merchant marine. Neither one interest or the other is to be protected or harmed as far as the public is concerned. The same tendency to "foster" is also said to be "detrimental to the commerce", but it is equally vague as to why detriment to commerce is linked with either the airlines or the merchant marine. Other reasons for a lack of connection to public interest and detriments are discussed in items (2) and (3) above.

(5) At least four rules have been laid down unassociated with facts as a result of the majority's reasoning. Item 2c, for example, refers to the public's right to deal with an agent free from motivation to influence choices. It is to be concluded from the majority's rhetoric that the public's right to freedom from motivations influencing choices will be examined into and the "right" is a matter of general applicability and future effect. For the present proceeding, however, there are no facts proving the assumed motivation, nor its effect, on travelers' rights to choose. This statement and items 2a, b, and d, if they won't stand up as findings supported by facts, require proof and public comment if they are to become rules instead.

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CONCLUSION

In conclusion, I find it extraordinarily difficult to reason from this record now after the Court's remand as I did before it was remanded, without more facts. I conclude that the record lacks the facts from which the findings

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could be formulated in order to determine if the findings support the conclusions advanced by the majority opinion. Lacking the needed facts, I hold the conclusions expressed by the majority to be in error.

The public, reading our respective reports and struggling to understand what we have done with this record in deciding why a conference of carriers should have adopted an agreement requiring a unanimous vote before any change is made in the commissions each carrier must allow to be taken out of the price of a passenger ticket, or requiring an agent to represent his principal only and not a competitor, might well wish we would say either a lot more or a little less. A lot more might supply facts from the record showing exactly how such agreements discriminate or harm the public or commerce. A lot less would be a relief if all that is really possible is a statement of position or of ethical principles. But no one is to be spared and the public is to get a restated rationalization of a position in the form of an unneeded justification based on personal experience rather than on a record.

Since the proceeding is before us on remand by a Court and will very likely go back again, the majority might at least have been alert about abstracting some facts which

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bolster a position, facilitate judicial review, and improve chances of success in litigation. But when all that is done is to offer a statement of why the agreements are bad for the public because of uncontroverted principles about our general powers and responsibilities under section 15, speculations about competition between airlines and water carriers in relation to the decline in ocean travel, unproven motives and assumed rights of passengers to buy tickets of

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competing principals from an agent of both, the task of meeting the Court's requirements and hence obtaining Court support of our reasons inducing understanding is made difficult indeed. One would expect more facts enabling a decision without the strain of complete reliance on personally perceived intangibles to tell us whether the decision is the right one or the wrong one.

If for no other reason than that section 15 of the Act authorizes the Commission to disapprove agreements only if any of the four conditions exist in fact and "shall approve all other agreements", the agreements before us should be approved.

I conclude:

1. that findings of fact supporting (a) discrimination and unfairness, (b) detriments to commerce, (c) contrariety with public interest, or (d) violation of law required by section 15 of the Act in relation to agreements of the respondents have not been proven and may not be made on the basis of the record in this proceeding, and
2. that the agreements authorizing unanimous approval of commissions to be paid to travel agents and obligating travel agents not to act as agents for competing carriers must be approved.

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Commissioner James V. Day dissenting:

Consonant with the decision of the Court of Appeals this matter has been reviewed for the purpose of making certain findings respecting the illegality of the unanimity and tying rules or, lacking this, to approve them. I would maintain the latter course.

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In my opinion the record does not support disapproval. The evidence is lacking. Conjecture is not enough.

With regard to the unanimity rule, I would note that conference agreements are not unfair as between carriers or otherwise detrimental merely because of unanimous vote procedures maintained by the conference in the absence of sufficient evidence concerning the actual results of operations under such voting rules. See *Maatschappij "Zeetransport" N. V. (Oranje Line) v. Anchor Line Ltd.*, 5 FMB 713 (1959). The lawfulness of conference voting rules, whether requiring unanimous, two-thirds, three-fourths, or majority approval must be determined on the basis of evidence introduced at a hearing as to their use in practice, and not on the basis of organizational procedure, etc. See *Pacific Coast European Conference Agreement (Agreement Nos. 5200 and 5200-2)*, 3 USMC 11 (1948). The record here is lacking in support of the majority position. Indeed, there is evidence of the value of the long-standing unanimity rule to conference carriers (Examiner's decision at pages 40 and 65).

There is also evidence that frustration of the desires of a majority of the conference carriers is not the real factor which places the lines at a competitive disadvantage. Other economic factors are the controlling cause (e.g., the speed of airline service itself). Thus, the majority opinion's claim that the agents' commission level fosters a tendency for agents to sell air over sea travel is hardly compelling. Indeed, the proof is lacking that ocean carrier business has been diverted in any real sense because of agent commission levels. Aside from this, one can hardly rest on the assumption that a rule permitting a majority of confer-

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ence members to raise the sea commission as high as they might actually decide, would make any real and lasting difference. Any such raising would hardly be expected to correct the cited competitive disadvantage and the possibility is present that air commissions could be raised in return.

With respect to the traveling public, there is likewise inadequate proof that any cognizable rights of prospective travelers were actually violated because of conference agents advocating air travel over sea travel. I am not

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persuaded that such advocating as may have been done actually resulted in any substantial diversion of people to air against their best interests and judgment. The majority opinion would in this instance attempt to insure the existence of only liner agents who have no proclivities; proclivities which, in this case, would also be adverse to the interests of their principals. As the Examiner noted (Examiner's decision at p. 70) correction of an advocacy of air by ship agents in this instance is better left to the managerial discretion of the ocean carriers in their dealings with their agents.

As regards the tying rule, again, conjecture, inferences and assumptions cannot here substitute for record proof.

There is inadequate proof that passengers have been denied the use of travel agents in obtaining passage pursuant to their choice. The record shows that 99 percent of all Trans-Atlantic steamship passengers go conference and that the only vessels whose operators are not members of the conference are freighters which can carry a limited number of passengers. The record also indicates that there are both conference and non-conference travel agents. The

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evidence is not persuasive that the percentage of passengers able and wishing to travel non-conference were significantly injured because of any lack of opportunity to deal with agents (where the passengers preferred not booking passage directly with a particular line).

Neither is the evidence persuasive as to any cognizably harmful affect of the tying rule on non-conference operators. There are non-conference agents. No non-conference carrier intervened in this case to complain against the rule.

Nor is the tying rule unduly restrictive on the agents in my opinion. The record indicates there are some services performed by the carriers for their agents—a justification for restricting agents' services in return.

Further, the carriers believe the tying rule is necessary to protect conference stability. I am not persuaded that the conference assertion of need is invalidated merely by the majority's reference to the Caribbean cruise trade where no conference exists and conditions "may indeed be somewhat different".

The majority assert that the tying rule is unjustly discriminatory as between carriers within the meaning of section 15; citing *Pacific Coast European Conf.—Payment of Brokerage*, 5 F. M. B. 225 (1957). In that case the Maritime Board outlawed a provision (in the absence of justification therefor) which prohibited payment of brokerage by conference lines to any forwarder-broker who served non-conference lines. Of the two non-conference carriers in the

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trade, one depended upon forwarder-broker for all cargo and the other for 80% of its cargo. Both non-conference carriers appeared in the case. The Board concluded that

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all forwarder-brokers in the trade would refuse to serve the non-conference lines and these non-conference carriers would be foreclosed from obtaining their cargo through brokers or forwarders. Here, there appear distinctions (e.g., there remain non-conference agents who can serve non-conference carriers and no non-conference carrier has intervened to assert its dependent need of agents now subject to the tying rule).

Finally, and in essence, I am not persuaded that the opinion and reasoning of the majority reveals a sufficient record basis for disapproval of the unanimity or the tying rule as being contrary to the standards of section 15.

THOMAS LISI
Secretary

(SEAL)

*Commission Report and Order on Remand***FEDERAL MARITIME COMMISSION**

No. 873**INVESTIGATION OF PASSENGER STEAMSHIP
CONFERENCES REGARDING TRAVEL AGENTS**

ORDER

This proceeding having been remanded by the Court of Appeals for the District of Columbia Circuit and briefs and oral argument having been made by the parties, the Commission on this date issued a report in this proceeding which is hereby referred to and incorporated herein by reference.

THEREFORE, IT IS ORDERED THAT:

(1) All provisions of Conference Agreement No. 7840 requiring unanimous accord of the member lines in deliberations by any group having final or recommendatory power over levels of commissions to travel agents, including Article 6(a) and Article 3(d), be modified to remove the requirement of unanimity in such deliberations; and

(2) Article E(e) of Conference Agreement No. 120 and the rules adopted thereunder prohibiting the member lines' agents from selling, without prior permission, transportation on competitive nonconference lines be eliminated.

By the Commission.

(SEAL)

THOMAS LISI
Secretary

Additional Excerpts From Testimony

—264—

By Mr. McManus:

Q. I will rephrase the question. Mr. Knowles, you have made various claims about what the purpose of the rule is. Is it not the purpose of this rule to stifle competition of independent carriers?

Mr. Neaher: I will object to the relevance of that question as not bearing upon the primary purpose to determine relationships between lines and their subagents.

Mr. McManus: I will argue from that because there is directly from the Supreme Court case which says in part, "But it must be emphasized that the freedom allowed Conference members to agree upon terms of competition subject to Board approval is limited to freedom to agree upon terms regulating competition among themselves. The Congress in Section 14 has flatly prohibited practices of Conferences which have the purpose and effect of stifling the competition of independent carriers."

Examiner Roth: Objection is overruled; the witness may answer.

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The Witness [Donald I. Knowles]: Well, I don't make any claims, sir. I simply offered my opinion as to what might be the reasons for the lines of maintaining this regulation. I think the rule goes back many, many years, and it has been maintained in the agreements. I think it has been found useful. It certainly has nothing to do with the lines them-

Testimony of Donald I. Knowles

selves. The rule itself specifies that it is lines who are not members of the Conference.

Off hand, now, I don't know of any passenger lines operating who are not members of the Conference in these trades.

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Q. [by Mr. McManus] Okay. In other words, if a travel agent were to have a request for steamship transportation aboard a tramp, he could possibly find accommodations aboard those eight associate members? Is that correct?

A. In addition to those, sir, of course, our own member lines operate freighters in that same area, so that we feel there is adequate opportunity for the agency to book on freight vessels if his clients so desire.

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Q. [by Mr. Blackwell] Who offers the trans-Atlantic passenger carriers the greatest amount of competition across the North Atlantic? What type of carrier? A. General consensus of opinion is now that it's the air carriers.

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Q. It's pretty severe competition, isn't it? A. Yes, sir.

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Q. You would agree with me, would you not, Mr. Knowles, that the air carriers are the primary competition that the TAPSC carriers have to contend with? Is that correct? A. Yes, sir.

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Testimony of Manuel J. Gibbs

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Q. [by Mr. Sisk] When it says, "Agreed that this matter be referred to the Subcommittee meeting," does that mean a vote was taken? A. Not necessarily, Mr. Sisk. You really have got to go to one of these meetings to appreciate how they work. It is not a formal meeting in the sense that we have a parliamentary meeting. You sit around a big table and they discuss these matters, and the discussion will indicate fairly clearly the opinion of various representatives present. And finally, the Chairman will say, "Well, we can't reach any agreement.. Shall we refer it to the

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Subcommittee?" Everybody says, "Sure."

So it is referred to the Subcommittee.

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Q. [by Mr. Neaher] Actually conducting transactions with your clientele, with customers who come in? Now, prior to appointment, if a person came in and wanted to go by steamship across the Atlantic, really wanted to go, would you dissuade them from doing that? A. [Manuel J. Gibbs] Only to an extent, because the steamship business you have a certain amount of people who not only want to go by steamship but have a specific line in mind and a specific date, and you can't dissuade them. You lose the business if you try.

Q. Yes. So would you say that the number of passengers prior to your appointment whom you could have swayed one way or the other would represent any substantial portion of those who wanted to go by steamship in the first

Testimony of Manuel J. Gibbs

place? A. No, I originally made a statement that it was
only a limited number.

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By Mr. Neaher:

Q. Do the procedures that you have to go through in ticketing a passenger on a steamship make any difference to you whether you sell that passenger by steamship or by air? Does that enter into it at all? A. Not necessarily, but it's not the ticketing that makes the difference.

Q. Well, by "ticketing"— A. You mean the entire availability of space field and—

Q. Yes, all the work that you are put to when a steamship passenger wants to book passage across the Atlantic as compared with one who wants to book airline passage.

A. Not if we can get space it wouldn't make a great deal. There's more paper work entailed and more file work, but I mean in that particular instance we try our best to please our passenger. We want a return booking.

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Q. When you say more paper work, is it not because generally steamship applications are made in advance and some of the ticketing process is handled through correspondence rather than on the telephone? A. Yes.

Q. And in the case of airlines most of your work is standing by the telephone? A. Yes.

Q. Tell me this: Is it your experience that you have a great many more cancellations of airline passages than you do of steamship passages? A. Yes, but—

Testimony of Joseph Neufeld

Q. Just a simple yes answer. That's good enough for me.

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Q. [by Mr. Sisk] What has been the experience of your agency, Mr. Neufeld, with respect to the amount of work involved in booking steamship passage as compared with booking of international air tickets? A. [Joseph Neufeld]

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You mean which is greater?

Q. Yes. A. Steamship.

Q. Could you give us any estimate of how much greater?

A. I'd say it takes twice as long and sometimes more.

Q. What is the reason for that? A. Well, in steamship you have deck plans to contend with, seating arrangements and dining rooms, deck chairs, bon voyage parties, flowers. The client seems to have a great deal less knowledge I think about steamship travel than he does about air because I think air is much more simplified. There is not too much the client can ask or do on an airplane because it is done so quickly.

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Q. And the 15 or 20 percent who are open minded, they

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are the ones who are subject to being influenced one way or another? A. Also some of the commercial people, for various reasons. After all we are in a position to advise them of things they are not aware of, I feel, like an attorney or a druggist. So they may be taking something only be-

Testimony of Joseph Neufeld

cause we are making it aware to them or bringing it to their attention.

Q. Now, in the past year have you found that space is more available with respect to steamship bookings? A. I would say yes.

Q. Has that lessened substantially the amount of work that you have to do in order to get a steamship booking? A. No. If you recall my previous answer to this I didn't mention anything about obtaining space.

Q. So that you still have to do a great deal more work with respect to getting a steamship booking than an air booking, regardless of the space question? A. Yes. Space could be considered as one of the features which takes longer, too.

Q. And when space is tight that really adds to your burdens? A. Yes.

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Q. [by Mr. Neaher] Can you estimate approximately a ratio? A. You mean strictly in transatlantic?

Q. Yes, if you can. A. Well, I'd say we receive probably twice as many cancellations by air as we do by steamer, but I think there is a very good reason for it.

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Q. And of course when an air reservation is canceled that means sort of lost work for you, doesn't it? You don't get any commission on that? A. No.

Q. Do you have to prepare semi-monthly reports of air transportation sales? A. Yes, we do.

Testimony of Joseph Neufeld

Q. And you don't have to do that in the steamship companies, do you? A. We have to do worse, I think. We have to place our money in—we have to pay I think within 48 hours. Mr. Mayper would bear me out on this. I am not too— You ask us to remit to you within 24 or 48 hours on every sale.

Q. When you say that is worse, in what respect? A. It is more difficult, more time consuming. You see I am a firm believer that it is easier to sell air than steamship,

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and I hope that this meeting would have the steamship companies make it easier for us.

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Q. You mean if they adopted some kind of expediting—
A. Surely. They have just come around now with one application form, which saves a tremendous amount of time. It is a godsend to us.

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By Mr. Blackwell:

Q. Mr. Neufeld, I don't want you to go away unsatisfied. I am going to ask you about the reason for the cancellations, but before I do when Mr. Neaher put the question to you about the relative degree of cancellations between air transportation and steamship transportation; if you eliminated the cancellations in domestic air would your answer still be the same? A. I think so.

Q. Now, what is the reason for the cancellations? A. Because most of the air reservations we find are made by commercial travelers, and the reason they have chosen air is because of speed in getting somewhere and business com-

Testimony of Joseph Neufeld

mitments. So a commercial man is more apt to change a reservation than a vacationist. If you were to ask me how

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many cancellations we get from pleasure travelers on steamship as compared to pleasure travelers on air, I would say that they are the same.

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Q. [by Mr. Sisk] What you may think is best suited for the client, one of your colleagues might not consider best suited? A. What you are bringing up is I think will one of my sales people favor air or steamship. It might be that he may because of the work involved, but as a rule

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we pride ourselves in doing what we think is best for the client and not just best for ourselves.

Q. With respect to cancellations, a subject which Mr. Neaher also asked you about, when you get a steamship cancellation what are the procedures which you have to go through to conclude that transaction? A. Generally it means requesting a deposit refund. We have collected a deposit or sent it to the steamship company. It means we now have to request it from the steamship company and return it to the client.

Q. What are the mechanics of that? Do you write them a letter? A. Yes.

Q. How long does it take before you get the deposit back? A. I would say anywhere from two to four weeks.

Q. And in that two to four week period are you frequently contacted by the client who wants his money back? A. Yes. In some cases we even give it to them.

Testimony of Joseph Neufeld

Q. You pay it out of your own funds? A. Yes.

Q. And in other cases you have to make explanations to them about why you don't have the money? A. Yes.

Q. When you get one of these air cancellations, what is
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the procedure there? A. Well, there is really nothing. Just call the air line and cancel the space, that's all.

Q. Do you have a deposit? A. No.

Q. So that is the end of the transaction? A. That is the end of the transaction.

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Q. Now, with respect to the amount of time consumed in booking sea transportation as opposed to air transportation, and considering that you got the new form, does it still take more time for sea transportation? A. Oh, yes. Well, your cancellation time is more than double, and you hardly ever sell a steamship booking without taking out deck plans and showing a person where they would like to be, and then even after a room is assigned you must also again show them on the deck plan or discuss it with them as to what room they have been given. It takes considerable more time than air.

Mr. Sisk: No further questions.

By Mr. McManus:

Q. Before you testified that you had to make immediate remittance of the moneys. You are obliged to have a trust account, is that correct? A. Yes.

Testimony of Max B. Allen

Q. When a client pays you for a steamship ticket do you put the client's check in that trust account? A. Yes.

Q. And then you have to draw a check against that trust account right away and remit it to the steamship company, is that correct? A. I am not completely familiar with the

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accounting department, which I don't handle, but what little I know I believe it is within 24 or 48 hours we must remit to the steamship company concerned.

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By Mr. Neaher:

Q. I have a few questions suggested by the previous examination. Mr. Allen, I meant to ask you when you were speaking about the relative volume of air traffic versus steamship traffic, it is true, is it not, especially since 1958, that the seating capacity of air lines across the Atlantic has increased by leaps and bounds? A. [Max B. Allen] Yes.

Q. Relative to any increase in steamship capacity? A. That is true.

Q. And that the most favored time of the year for steamship carryings is a relatively limited period of time?

A. I don't agree with you there.

Q. Well, isn't there what is known as a high season in steamship parlance? A. You have a high season as far as traffic perhaps, as it is known today, but that is no criteria of what it could be.

Testimony of Max B. Allen

Q. Well, I understand that everything has a potential. I am speaking now of the situation that has existed over the years. There is a period of the year during which traffic across the Atlantic is at its peak; isn't that so? A. That's correct.

Q. And steamship people—Have you heard the expression "high season"? A. Oh, yes, yes.

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Q. You know what that means? A. Yes.

Q. It means certain months in the year when steamship space is relatively difficult to obtain because of the great demands and it runs perhaps from spring to fall, April to October or thereabouts?

Examiner Roth: Was that answered?

Mr. Neaher: I think the answer was "yes."

A. Yes.

Q. In that period of the year as well as the balance of the year there has been a vast increase in air line seating capacity over the Atlantic, hasn't there? A. Oh, yes.

Q. And particularly because of the introduction of jet airplanes? A. That's partially responsible, yes. Seats do not develop business.

Q. But they make it possible for business to sag? A. If the steamship companies were operating to capacity I would agree with you.

Q. Well, operating at capacity at other than peak seasons, you mean. It is a fact that steamship capacity is more readily available during what they call the off season, is it not? A. That's correct.

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Testimony of Ralph Edell

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Q. Now, the steamship companies have never had their own ticket offices in that sense, isn't that so? A. That is correct.

Q. They have depended on the independent travel agent to fulfill their sales function? A. That is correct.

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By Mr. Neaher:

Q. Mr. Edell, do you find in your travel agency that you get a great many more air line cancellations than you do steamship? A. [Ralph Edell] I would say yes.

Q. Would you have any idea as to the rate or ratio? A. We are only talking about Europe, correct?

Q. Right. A. It is not a great deal more—10, 20 per cent more.

Q. In connection with influencing people who as you say can be influenced to go either by ship or by air, what is your guiding principle? A. I don't have any guiding principle. If you take out an air line book and a steamship guide, it is easier to quote a fare on the air line if someone wants an approximate fare. Every air line will have that same economy jet fare and one price will cover all of them, and that will answer that question.

Q. Don't you examine into the customer's you might say needs or particular desires? A. Oh, yes, we try to sell the customers. If we see someone is looking to travel by ship

—1351—

or seems to be wanting ship, of course we sell it.

Q. You don't switch him to air in those cases? A. No,

Testimony of Louis Schenker

we don't talk someone out of going, unless naturally we knew he couldn't get it under certain circumstances or what he was asking for was impractical.

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—1389—

By Mr. Sisk:

Q. You indicated with respect to requests for travel on non-conference freighters that when you get them in many cases you talk to the potential traveler and explain to him good reasons why perhaps the traveler ought to go tourist class? Is that right? A. [Louis Schenker] That's correct.

Q. In doing that, you're engaging in salesmanship, are you not? A. That's correct.

Q. In fact, that's what your business is, is it not? A. Oh, definitely. It requires a lot of very careful and patient explanations and selling.

Q. Your agency is not merely a place where somebody drops in to pick up tickets? A. No.

Q. Now, about how much experience do you find is desirable for your staff in handling steamship bookings?

A. If I was to answer it honestly—and I'd like to—it's

—1390—

endless. However, a person who is apt to know something should have five or six years experience.

Q. And how about the handling of international air bookings? A. Air bookings?

Q. Yes. A. Well, that's a different story, because all you have to do is open your guide and look when there is a flight going where, and that's it. It is only when a person has numerous flights in connection with an F.I.T. that requires

Testimony of Thomas J. Donovan

a little more time. But still all we have to do is just look up the schedule and we know what flights we have.

And by experience we also know beforehand if we're apt to run into any difficulty because they're apt to be full.

And therefore right in our first conversation with the client we'll ask the client would he consider a day or two earlier or later or staying a day longer in one place than he anticipated. And so we have much less difficulty on that score.

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—1416—

Q. [by Mr. Sisk] And how does the travel agent go about persuading people? A. [Thomas J. Donovan] I don't

—1417—

know how other agents do it but what we try to do with any customer that we talk to in the office is we try to find out what their object of their trip is, what they're trying to get out of it. And if the people have the time, we definitely believe in sea transportation.

But with the situation the way it's been the last eight to ten years, it's getting harder and harder to convince people to go by sea.

But where we used to have a pattern where people would travel round trip by sea, now we find an increasing amount want to fly both ways. And what I have personally been successful with is with a lot of our friends is to try to convert them into using ship back.

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—1418—

Q. What is your policy with respect to the desirability or necessity for experience of your sales people? A. Well,

Testimony of Thomas J. Donovan

I won't let anybody sell in our office unless they've got an absolute minimum of four years' experience. And I would say the average of our sales people today that actually sell is about eight years. And, of course, we have a number of people that are 25 or 30 years experience.

Q. Now, are you of the view that the same amount of experience is necessary for selling steamship travel as for international air travel? A. I think you need more experience to sell ship travel than air travel. You haven't got a common denominator when you're selling ship travel. You have to know ships and berthing and ports of embarkation

—1419—

and debarkation. With air travel your rates are constant. You're selling three or four different kinds of aircraft and you're not selling a space assignment.

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—1421—

Q. Is this rather unusual looking folder an international air tour folder? A. This is one on air, with air transportation, but other carriers— And we also sell ship travel off of it too.

Q. Could you describe this just generally for the record? I see in speaking of "record," when you open it up there is a disk, a record, inside it.

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—1422—

The Witness: It's been quite effective, and it's fortunate we have a copyright because there's a couple of people want to use it. But it's well done.

Testimony of Thomas J. Donovan

And while the tours aren't selling quite as good this year, it's again economic situation. Last year they were all sold out without the record. This year they're not doing too good with the record.

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Q. How many of these international air folders with that record inside were put out? A. 60,000.

Q. And do you remember how much that cost you? A. That folder I believe cost around \$7,500 or \$7,800.

Q. Did the airlines contribute anything to the cost of that? A. Yes, they did.

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—1426—

Q. Mr. Donovan, there is currently under consideration by the Atlantic Conference a proposal to assist travel agents with respect to cost of tour folders, and, as we understand it, the proposal is to pay about half of the cost of the tour folders up to a maximum of \$250. What effect would that have upon your operations?

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—1427—

The Witness: If such is true I'm surprised that it's so small, because it wouldn't mean a thing.

Now, may I amplify that to say that if some agent was going to try to run a tour by ship and did a press run of possibly 5,000 or 4,000 or 2,000 and it was done in one color on an enamel stock, colored enamel stock, where his cost of production might run \$500, then it's a good contribution.

Testimony of Thomas J. Donovan

But to put out literature and get a maximum allowance of \$250 is nothing.

Now, we're not overly proud of even the folders we put out today, but, as I indicated, this one we have out currently cost \$5,500 to \$5,800. Certainly it's a contribution but it certainly doesn't cause a reduction in price, and that is what all operators

—1428—

are striving to do—is to expand the market and get in a bigger field by keeping the price down. And we can't do it.

—1435—

Q. Would you look now at the third page of Exhibit 50, page 343, under Item 5. There it purports to report Mr. Robinson's statement with respect to the need for higher commissions. There is no indication there of what the response was from the representatives of the Atlantic Conference. Can you tell us what their response was?

A. Well, they just told the usual deal was—all we needed was a 7-piece orchestra because the words were always the same. They just told us they couldn't afford to do it because the oil went up, their labor factor went up, their food went up, and we got absolutely no consideration or

—1436—

possibility. They felt if they raised the rates, for example, from \$350 to \$375, well, we were making 7 percent on the extra \$25 and that should be adequate compensation. When we originally started out we felt that our best point as far as transatlantic carriers were concerned was that they should at least become competitive with the interna-

Testimony of Thomas J. Donovan

tional air carriers, and we felt that they were being hurt by not being competitive, just the same as if our company started to put a tour on the market and paid 7 percent and American Express and Cook started paying 10. I wouldn't be able to compete with them, with any agent. They said that they would take the 7. And there are many prominent tour operators in the country who spend I would say several hundred thousand dollars a year putting out literature on escorted tours to Europe, and we felt that it wasn't right to the passenger to be raising the cost and still we couldn't merchandise the product through agents unless we paid 10 percent commission, because this is the normal minimum. Anybody that puts out anything for a less commission is absolutely foolish, because the same as if Chrysler comes out and says they are going to pay their salesmen 2 percent when General Motors pays 4 percent and the dealer makes 25 percent—we know all this is standard operating procedure, but you know that in a competitive business—and this is strictly a competitive business—you have to put a certain or have a certain amount of earnings, and this is —1437—

one of the reasons the steamship lines have gone downhill over the last ten years, because they have had the carriers—The air carriers, for example, are a lot more aggressive and they have induced many more people to sell their product.

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—1447—

Q. [by Mr. Sisk] Just one more question. Mr. Donovan, at any of the meetings which you have attended has any single line either during the course of the meeting generally

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Testimony of Thomas J. Donovan

or during any informal chats which may have preceded or followed the meeting given an indication of sympathy for the request for a higher rate of commissions?

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—1448—

The Witness: Cunard Line mentioned that they were in sympathy with our position and recognized the economic situation, but of course I would have to understand that there had to be general unanimous agreement for any change in the commission

—1449—

arrangement.

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—1475—

Q. [by Mr. Neaher] Isn't it true that you have a great many more people changing their minds about airline

—1476—

travel in terms of cancelling reservations made for them than you do in the case of steamship people? A. No, sir, not on international travel.

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—1477—

Q. . . . Do you find that people who want to fly from New York to London, for instance, for business, give you more cancellations when they are going by air than is the case with a steamship booking? A. If you were doing straight commercial business, yes, I would say that they might have a little more change on the deal. And a passenger may, for example, be trying to get on PanAm and he was unable,

Testimony of Thomas J. Donovan

and he got space on another carrier, and then the carrier calls back and says, "Well, the other space is available."

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—1496—

By Mr. Neaher:

Q. Mr. Donovan, when you were relating, as you say, the details of the procedure of booking a passenger on a ship and all that is entailed in that, I suppose you would agree that in so far as the shipping companies are concerned that is a similar burden upon them, isn't it? A. Not to the same extent.

Q. But they are there at the other end of the telephone, and they receive the paper that you send them, correspondence and the like, and they have to deal with the other end of the street, so to speak, do they not? A. That's correct.

Q. And that is inherent in the nature of the business? A. It is as far as they are concerned, but they know their own ships. An agent has to know everybody's ships, and this is where the difficulty comes in.

Q. Well— A. And the carrier is going to protect his position on whether they have for sale or not have for sale, and he knows exactly what he is doing. He knows every

—1497—

stateroom on a berthing sheet, the same as the palm of his hand without looking it up. An agent can't possibly file all that information in his mind. He has to go and look it all up. Any good steamship or berthing clerk can tell you what the rate is tourist class or cabin class and can tell you the rate on every room on every ship he has got, and he knows whether it is good or bad, and there are good and bad rooms on every ship.

Testimony of Robert W. Hemphill

Q. But involved in the training and experience of your employees, I would assume, is built up a familiarity with this procedure? A. With the technique but not about the specifics.

Q. You mean changes in rates and things of that sort? A. Not so much change in rates. It is the change in assignment of rooms, because I would say that generally the average traffic agent doesn't get the rooms that he normally requests or wants to get. He will get something, and it may not be to his liking. So then he has to start the process all the way through again to get what the customer wants.

• • • • • —1893—

Q. [by Mr. Sisk] Now, Mr. Hemphill, have you upon occasion been approached by any of the TAPC lines with respect to tie-in advertising? A. [Robert W. Hemphill] Yes. Frequently.

Q. What is tie-in advertising? A. The steamship lines ask the agents to put in small ads beneath, under, or around their large ads in newspapers, and to pay for these ads themselves.

• • • • • —1894—

Q. And what has been your response to those requests? A. We refused them.

Q. Why? A. Because we cannot afford to help them in their advertising.

Q. Why not? A. Because our steamship business has been unprofitable.

• • • • • —1900—

Q. [by Mr. Blackwell] Do you know about his responsibilities or capacities? What function did he perform with

Testimony of Robert W. Hemphill

American Export Line in his meetings with you and in his relationships with your travel agency? A. Well, he's one of the head—one of the top men in American Export Line.

Q. And his office is in Los Angeles? A. No, Mr. McConnell's office is in New York.

Q. Now, when did these meetings take place? First, as to the meeting in the agent's home, approximately when was that? A. I would say that that was about possibly three years ago.

Q. Was that before or after the Paris meeting? A. The Paris meeting was in September. This was in summer. It must have been the next summer. I believe it was in the summer of 1958.

Q. And you testified he stated that the reason the lines didn't raise the commission or the conference didn't raise the commission was resistance from other steamship lines?

—1901—

Is that exactly his words? A. I won't say it was exactly his words, but that was the impression.

Q. Well, what— A. That they couldn't agree.

Q. That they couldn't agree? A. Couldn't agree. And it was opposed by other carriers.

Q. Did they mention that they had achieved the majority on any vote? A. We didn't go into that.

Q. Just couldn't agree? A. (Nodding affirmatively.)

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—1904—

Q. May I inquire here: You mentioned 1935 on an earlier occasion about a meeting I think you said— Was it Lausanne or Lucerne? A. 1957 at Lausanne was the

Testimony of Robert W. Hemphill

ASTA convention: No, I beg your pardon. 1955 in Lausanne.* 1957 in Madrid is correct.

—1905—

Q. Now, on either of these occasions did you bring the commission question to Mr. Gautier's attention? A. I always do when I talk to the Atlantic people. I never fail to bring it to their attention.

Q. And did Mr. Gautier make any reply to you regarding commissions? A. He was pleasant, friendly, and said the usual thing—"We'd like to help you. We're in sympathy with you."

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—1917—

Q. [by Mr. Neaher] Now, the steamship provides in effect a floating hotel, does it not? A. Right.

Q. So when you get to transportation you have to necessarily discuss with the passenger what virtually amounts to hotel accommodations, his meals, — A. Yes.

Q. —entertainment facilities, recreation? Right? A. Yes.

Q. So that is, you might say, a dual type of function being performed there? Right? A. I might even add that it's more than that, because, as I have frequently pointed out, the steamship lines provide transfers on or off the ship if necessary. They provide hotel accommodation. They provide the world's finest food and service. They provide entertainment. They also provide the know-how and the reputation of, in many cases, a hundred years.

Q. Right. Now, of course, the charges that the customer pays for that necessarily include both transportation and

Testimony of Robert W. Hemphill

what we might call the hotel and— A. These complex services.

Q. —and recreational aspects— A. Right.

Q. —and of necessity the agent's commission is based on —1918—

both those elements? A. Yes.

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—1919—

Q. Would it be fair to say that primarily in recommending whether a patron go by sea or by air you try to find out what he really wants to do most? A. That's right.

Q. Sightsee abroad or have a restful vacation by sea? And that it's his welfare you're looking at— A. Right.

Q. —when you recommend this or that? A. Right.

—1920—

Q. And not necessarily your own pecuniary profit? A. Well, both things are considered. First of all,—

Q. Well, I can understand— A. —we want the customer—

Mr. Sisk: Wait a minute, Mr. Neaher.

Mr. Neaher: Let him answer. Go ahead. I didn't mean to cut you off.

The Witness: We walk a tightrope let's say. We have the profit motive.

By Mr. Neaher:

Q. Certainly. A. Also we want that customer to come back to us again. And that's probably the most powerful motive.

Testimony of Robert W. Hemphill

Q. Right. You want a satisfied customer? A. Yes, we want him to come back to us.

Q. To satisfy him you fill his needs? Right? A. Right. We try to fit him into a type of travel where he will get the greatest enjoyment.

Q. Right. A. We must then honestly make comparisons.

Q. As far as— A. Very honest comparisons.

Q. As far as his pocket book is concerned? Right? A. Right.

—1937—

Q. [by Mr. Neaher] Well, at least, they certainly were considered in 1957 when this group met with you, were they not? A. (The witness nodded his head affirmatively.)

Q. Your answer is yes? A. Yes.

—1938—

A. Well, some of these conversations that I have reported having with representatives of carriers, saying, "We would like to do something for you, but others won't let us." "We have to agree on these things." And they would say it is always some other carrier, it was never them. They would say somebody else was always the objector. We don't know who it was, but that's what they would tell us. It is always somebody else who is objecting. "We are in favor of you; we want to do something, but we have to agree on this."

—1939—

A. They would talk about their expenses and their costs. They would up their rates and each time, we would think maybe we were going to get more commission, but it never happened.

Testimony of William H. McConnell

Q. When the rates went up, the 7 per cent would be applied to a larger base, wouldn't it? A. Sir, that is fractional, not worthy of discussion. I am sorry.

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—2167—

Q. [by Mr. Neaher] Now, in all your years of attendance at Atlantic Conference Principals or Subcommittee meet-

—2168—

ings, or, indeed, in any dealings in between those meetings in connection with Atlantic Conference matters, have you ever heard anyone say or even got the impression by implication that the decisions of the Atlantic Conference with respect to commissions to be paid to subagents was the result of any deal or understanding with any other Conference such as IATA or any other shipping conference? A. [William H. Connell] Never under any circumstances.

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—2170—

Q. [by Mr. Blackwell] To your knowledge, Mr. McConnell, has a meeting of the Atlantic Conference ever taken place in the United States? A. Not since my association with it.

Q. And when did that commence? A. Beg pardon?

Q. When did that commence? A. My connection with the Atlantic Conference started in October, 1951.

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—2177—

Q. Now, when commissions are discussed at the Atlantic Conference meetings, are they discussed with the view to

Testimony of William H. McConnell

viewing the lines' problem as a whole, or are they segmented saying, "How does this affect the Scandinavian Lines; How does this affect the lines to Northern Europe, Germany, England, France, the Low Countries, and on the other hand, the Mediterranean?" Those are the three basic

—2178—

trading areas, the Mediterranean, North Atlantic and Scandinavia, is that correct? A. That's right.

Q. Are the discussions segmented according to economic impact in those particular areas? A. Not at all. There is no such thing as a division by area in a subject such as rates and commissions. In other words, there isn't a solid view of the Mediterranean or necessarily a solid view in other areas.

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—2211—

Q. [by Mr. Sisk] Well, now, with respect to the commis-

—2212—

sions paid to travel agents, any line which doesn't wish to pay a higher commission doesn't have to, does it? A. Under the rule of unanimity we would finally reach an agreement and all lines would thence pay the same commission.

Q. But the unanimity rule as it applies to commissions would not require a line which didn't want to pay the prevailing commission to pay one that high? It could pay a lower commission? A. I can't quite picture a circumstance like that coming about.

Q. Well, you said that this provides a great safety valve for the American lines. Now, if— A. I mean to say in

Testimony of William H. McConnell

certain types of dispute. In other words, while we're outnumbered, our strength is secure. Is it not?

Q. Well, do you have any other safety valve besides that, Mr. McConnell?

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—2256—

Q. [by Mr. Sisk] Well, look at Exhibit 66, at the minutes of the May 7, 1956 meeting I've just referred you to. A. That's No. 66?

Q. Part of Exhibit 66. It's May 7, 1956. Now, that reflects an abstract from the minutes of everything that related to travel agents and commissions to the best of our understanding with Mr. Neaher. Why didn't the minutes reflect the vote that was taken which you just described? A. It may have been deferred. I'm now— This is a conjecture on my part. The announcement was deferred until May 18, 1956.

Q. What are you reading from now? A. I'm reading from a document dated in London May 7th which is the date of the principals' meeting which is part of this Exhibit 66.

—2257—

Q. Yes, but not part of the minutes, Mr. McConnell? A. Not part of the minutes.

Q. Now— A. But it must be reflected in the minute book, however.

Q. What makes you say that? A. As well as the season for 1957 must be recorded in the minute book.

Q. What makes you say that? A. Do you suppose I could look at some of my documents here to refresh my memory?

Testimony of William H. McConnell

Mr. Neaher: Do you have with you the minutes of May 7th, the complete minutes?

The Witness: I probably do.

Examiner Roth: Well, bring them out.

The Witness: Their minutes are, by the way, filed with the Federal Maritime Board, as you know.

(Looking at documents) I'm sorry to say I can't find it in my book.

By Mr. Sisk:

Q. You have now reviewed for the past three or four minutes the minutes which your company keeps of all the Atlantic Conference meetings? A. Beg your pardon?

—2258—

Mr. Sisk: Would you read that back?

The Witness: Yes, I think I have, very quickly.

By Mr. Sisk:

Q. Well, we couldn't find it either in the minutes, Mr. McConnell.

Now, would you look at the document which you referred to a moment ago dated May 7, 1956? A. Yes.

Q. Which is part— A. The fact of this commission having been altered in May 1956 required a communication from A.C. to the TAPC.

Q. Well, I— A. And I'm now looking at the minutes. Excuse me.

Q. All right. Go ahead. Are you through looking at your minutes? A. Yes. You asked a specific question in connection with these minutes.

Testimony of Tarleton Winchester

Q. No, now I'd like you to look at the part of Exhibit 66 which you have in front of you which is a document dated May 7, 1956 and which has certain initials down at the bottom of the page. A. That's right.

Q. Now, that document is not part of the minutes, is it? A. Apparently not. Apparently not.

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—2314—

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Q. [by Mr. Sisk] Now, Mr. McConnell, have you considered economic factors involved in your company with respect to paying a ten per cent commission on that West Indies cruise business? A. We have.

Q. How can you afford to do it? A. Because it's an area where airline competition is not serious.

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—2321—

Q. [by Mr. Neaher] Yes. United States Lines operates under a subsidy from the United States Maritime Administration, does it not? A. [Tarleton Winchester] That's correct.

Q. And are you acquainted with the purpose of that subsidy? A. I think so.

Q. Would you mind stating it? A. You're talking now about the operating subsidy, not the building—not the ship-building?.

Q. The operating subsidy; that's right. A. The object of it is to endeavor to place American ships operating under the American flag with American crews as nearly as possible on a parity with their foreign competitors.

Testimony of Tarleton Winchester

Q. And those foreign competitors include other members of the Atlantic Passenger Steamship Conference? A. Yes indeed.

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—2332—

Q. Now, in connection with consideration of various proposals, let us say, over the past ten years, in these Atlantic Conference meetings, has it ever come to your atten-

—2333—

tion that any decision reached with respect to the level of commissions agreed upon was reached by virtue of some understanding or deal with any other Conference or Conferences such as IATA? A. I know of no such case.

Q. Or other steamship Conference? A. No, I know of no such case.

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—2351—

Mr. Sisk: In connection with that, Mr. Examiner, I should like to make an offer of proof pursuant to Rule 10-L of the Rules of Practice and Procedure as they relate to documentary or written evidence, and as I read the rule it appears that a copy of such documentary or written evidence shall be marked for identification and shall constitute the offer of proof.

I should like to make an offer of proof of this document with particular reference to the excerpt under the heading "Sea/Air Relations."

Examiner Roth: If you will read the three sentences into the record at this point, it will constitute your offer of proof.

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Testimony of Tarleton Winchester

—2352—

Mr. Sisk: This particular subject matter relates to the method by which the conferences which are being investigated here have acted in the matter of their procedures with particular reference to the setting of a commission rate at the same level as that of the airlines, international airlines, in connection with point-to-point transportation.

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Examiner Roth: I will call your attention specifically to the fact that the extract you are about to read into the record as an offer of proof has no relation to travel agents, no relation to rates of commission, no relation to any issue that I perceive in this proceeding.

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—2353—

[by Mr. Sisk] "The C.G.T. were also very strong for arrangements with the airlines. Mr. Chardon stated that he understood the airlines were contemplating operating third class in planes at a very low rate. In their opinion there is a real danger in our not keeping in touch and endeavoring to cooperate with the airlines. He felt that more can be done by cooperating with the airlines than by standing aloof. This view was strongly supported by Swedish American."

Examiner Roth: That constitutes your offer of proof. It has been ruled inadmissible. You may make your argument on brief.

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Testimony of Tarleton Winchester

—2360—

Q. [by Mr. Blackwell] Now, United States Lines' passenger service serves—and if I'm wrong correct me—Southampton, Havre, Bremerhaven, and occasionally Cobh? Is that correct? A. The AMERICA calls at Cobh. Yes.

Q. Now, the first line listed is the Swedish American Line. Do they serve any of those ports? A. No.

Q. American Export Lines is next. Do they serve any? A. Mediterranean only.

Q. And APL is the next one, and they do not serve those ports? A. No.

Q. Now, how about the Canadian Pacific Railway Company? A. They go to Canadian ports only.

—2361—

Q. Do they go to United States ports? A. No, unless perhaps a cruise sometime. I think they do.

Q. So except on perhaps a cruise sometimes, a carrier that does not serve the United States trade can block action for instance on commissions that might affect travel agents in the United States? Is that correct? A. If you could keep the Canadian Pacific into the Canadian trade only you'd be doing something. They do a great deal of business in the United States.

Q. You mean they get passengers from the United States? A. Yes.

Q. Who take their ships? A. Yes.

—2362—

Q. But their vessels ply between Canadian ports— A. That's right.

Q. —and European ports. A. Yes, sir.

Testimony of Tarleton Winchester

Q. Now, the next line is the French Line, and they do serve at least some of the ports that U. S. Line serves, is that right? A. Harve and Southampton.

Q. What is this next Companhia Colonial de Navegacao? A. It is Portuguese.

Q. Portuguese. How much service do they have? A. They have two rather good ships that run between Lisbon and the South Atlantic ports and West Indies. They don't come up here at all. One of them was recently in that—you know.

Q. I was going to ask you if they have two or one. A. I think they have got it back now.

Q. But the Portuguese Line does not serve the United States, is that correct? A. Yes. I think Port Everglades or Miami; I am not sure.

Q. They serve Port Everglades? The Grace Line does, coming up from the Caribbean. A. Yes. I don't know which way, but they call at the Caribbean ports on the way.

—2363—

Q. Would it be fair to say that they have only incidental service to the United States? A. Yes, but they have all sailings, I think, call at a U. S. port either one way or both ways.

Q. Cunard is the next one and, of course, they have an elaborate service across the Atlantic, primarily to the ports that the U. S. Line serves. A. Yes, sir, Liverpool ports as well.

Q. The Norwegian America Line, are they an exclusively United States-Scandinavian carrier? A. And Canada, too.

Testimony of Tarleton Winchester

Q. And the Donaldson Line? A. They are from Scotland, Glasgow and Liverpool to Canada or Newfoundland and places like that.

Q. Do they serve the American— A. They don't often come down here at the present time, I don't believe.

Q. There is a provision in the agreement, is there not, Mr. Winchester, which requires a line to have so much service in a given year or in a 6 months period? A. Yes, they have to maintain a service that appears to be a proper service.

Q. Service between what points would be involved there? A. I think any points within the Atlantic Conference agree-

—2364—

ment.

Q. Trans-Atlantic? A. Yes.

Q. Even though it doesn't touch the United States? A. Yes.

Q. How about the Europe-Canada Line? They are a Canadian carrier almost exclusively, are they not? A. That is a German flag, I think. It says "G.m.b.H." here.

Q. I didn't ask you about the flag. I asked you about the trade they serve. A. Europe to Canada, yes.

Q. And then, there are four companies listed under the Greek Line. A. That's right.

Q. They are Mediterranean carriers primarily? A. Yes. Sometimes these—I think they are Mediterranean, yes.

Q. And they are bracketed and it says, "As one member only." So they would really, if you would accept the term "vote," they would only have one vote, is that correct, for the four? A. I presume so. If they have the right only to

Testimony of Tarleton Winchester

pay one membership fee, it seems to me that that would be so. I don't know that the question has ever arisen.

—2365—

Q. Hamburg Atlantik, is that the same as Hamburg American? A. Well, no. It is a new line since the war, operating under the name of Hamburg Atlantik Line and having used quite a number of employees that used to be Hamburg American.

Q. And does that serve the United States trade? A. Yes.

Q. Do they have passenger ships? A. Yes.

Q. Incidentally, are freight ships eligible for membership in the Atlantic Conference if they carry 12 or more passengers? A. There is such a thing as an associate member who hasn't really got passenger ships.

Examiner Roth: Twelve or more?

The Witness: Twelve or more.

By Mr. Blackwell:

Q. Twelve or less. A. Oh, they can be less, of course.

Q. Now, the Incres Line, where do they— A. As far as I know, they only cruise out of here now. They have one ship, I think.

Q. You say "cruise," do you mean— A. From here down to the West Indies and so. I don't think they make any Atlantic voyage. They might make one a year or some-

—2366—

thing to be over for repairs or something like that.

.

Testimony of Tarleton Winchester

—2367—

By Mr. Blackwell:

Q. Mr. Winchester, when we recessed for lunch I believe we were talking about the trading area and description of the Inces Steamship Company.

I believe we had skipped the Home Lines. The Home Lines does run a passenger service, does it not? A. Oh, yes. Yes.

Q. And it's primarily a Mediterranean service? A. They also have some sailings from the North Atlantic as well.

Q. Now, how about the Johnston Warren Lines Ltd., with the company called Furness Warren Line in brackets there? A. Well, that's a subsidiary of Furness Withy, which is a very big company, and they run mostly I think to that island off Canada—

Q. Nova Scotia? A. Nova Scotia, yes.

Q. Do they serve the trade between the United States ports and ports in Europe? A. I would say not.

—2368—

Q. And the Khedivial Mail Line, Ltd.? A. The number of sailings that they have I really don't know. I never come in contact. They run between Egypt and the United States as I understand it.

Q. And the Oranje Line? A. Well, it is a Dutch line which is a subsidiary or at least a—very much of an associate of the Holland-America Line, and it runs into the Great Lakes.

Q. Do they carry passengers? A. Yes, they do.

Q. Do they run passenger ships? A. At least one.

Q. How large is it? A. I should say 10,000 tons. Something like that.

Testimony of Tarleton Winchester

Q. How many passengers do they carry? A. Probably 100 or 120. I really don't know.

• • • • •

—2369—

Q. How about the National Hellenic American Line? A. Well, that is a complicated thing, because it's part of the old line that that Greek that died— He owned several— a lot of ships. And this is another name. I think Mr. McConnell yesterday gave some indication of what the difference between it and the Home Lines, which is also owned I think by the same ownership—

Q. The National Hellenic Line, what trade do they serve? A. Mediterranean.

Q. To U. S. ports? A. Yes. I think they have sometimes sailings to the north but—

Q. Then there's the Norddeutscher Line. A. That's German.

Q. German American Lloyd is that? A. It's the old—

Q. North German Lloyd? A. Yes, North German Lloyd. Bremen, Bremerhaven.

Q. They run a passenger service to Bremen and Bremerhaven? A. Yes.

• • • • •

Exhibit 53**Additional Exhibits**

A-53

October 9, 1950.

A.C. 271-50.

—6—

**ADDITIONAL ITEM—AIR/SEA RELATIONS
(Continued)**

of the Air Lines' Committee:—

"I am instructed by the Member Lines of this Conference to inform you that at a recent meeting it was decided, effective to increase sub-agency commission from 6% to 7½%. The fact that up to the present the scales of commission paid by the Steamship Lines and the Air Lines have differed has been one obstacle to co-operation and equalisation of certain conditions to our mutual benefit. It is, therefore, hoped that the step now taken by the Steamship Lines may render possible further consideration of other problems of mutual interest which have previously been the subject of discussion."

ADDITIONAL ITEM**SUBJECTS FOR DISCUSSION AT MEETINGS.**

To facilitate the work of Lines' representatives attending meetings, it is recommended that, in placing items on the agenda of Principals or Sub-Committee meetings, Lines, in addition to naming the subject, will add an explanation of the matter to be discussed.

Exhibit 67

ATLANTIC CONFERENCE

MINUTES OF MEETING

of the

Atlantic Conference

held at the

**Feira das Industrias Portuguesas,
Lisbon**

THURSDAY, OCTOBER 10, 1957

[Excerpt from pages 7 and 8]

• • • • •

**299.—INTERNATIONAL CONSULTATIVE COUNCIL
OF TRAVEL AGENTS.**

The report of the A.C. Committee which met a delegation from ICCTA in Paris on September 20, 1957 was noted. In regard to paragraphs 2(b) and 2(e) of this report, the Secretary will inform ICCTA that the Lines regret they are unable to agree to the proposed increases in handling fees and agency commission.

Exhibit 67

(Letterhead of Atlantic Conference, Folkestone, Kent)

October 25, 1957.

CONFIDENTIAL

AGENCY COMMISSION

(Ref. Prin.Min.299)

Letter TO Colonel H. H. Robinson, International Consultative Council of Travel Agents, London, dated October 16, 1957:—

"I refer to the meeting between a delegation from ICCTA and a committee from this Conference which was held in Paris on September 20 last.

On that occasion ICCTA made a strong plea for an increase in commission from 7% to 7½% on all point to point sales except for business originating in the United States and Canada which, in view of the higher operating costs in these countries, they suggested should be 10%. ICCTA also submitted that the commission on inclusive tours and on all cruise bookings should be 10%.

I am now requested by the Member Lines of this Conference to inform you that at a recent meeting the proposals placed before the Conference by ICCTA received their most serious and sympathetic consideration. The Member Lines are, of course, aware of the increasing costs with which agents are confronted. They themselves must meet these increases not only

Exhibit 67

in the administrative field for salaries and office expenses generally, but in the much more important matters of fuel for their ships, crew wages, victualling, dock labour, etc. You will, I am sure, realise that these and other expenses incidental to the operation of the Lines' fleets place a heavy strain on their revenue and cause them to view with concern any step which would result in a further diminution of it.

The Member Lines have given serious consideration to the ICCTA request for increased remuneration but in view of the foregoing they greatly regret that at the present time they are unable to accede to it."

October 25, 1957.

Letter TO Colonel H. H. Robinson, International Consultative Council of Travel Agents, London, dated October 18, 1957:—

"I regret that in my letter of October 16 on the subject of agency commission I omitted to refer to the question of the handling fee which at the Paris meeting you suggested should be increased from 17/6d. to £2.

This matter was not overlooked at the recent meeting of Principals. It was given consideration at the same time as the commission items but for the reasons that made acceptance of the increased commission impracticable the Lines were unable to agree to your proposal in regard to the handling fee."

Exhibit 67

Letter FROM Colonel H. H. Robinson, International Consultative Council of Travel Agents, London, dated October 23, 1957:—

“On my return to the office after a visit to the Continent I have for acknowledgment your letters of the 16th and 18th October, in which you advise me of the decision of the Member Lines of your Conference in regard to the application made by I.C.C.T.A. for an increase in commission.

I am advising the contents of your letters to the members of my Council.”

NOTE:— In a cable from Miami Beach Mr. Brancker advises that at the IATA meeting there it was decided to refer the question of agents' commission to a Traffic Advisory Committee to study and make recommendations to the IATA Conferences.

Excerpts From Exhibit 96

(p. 36)

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**RESPONSE OF COMPAGNIE GENERALE
TRANSATLANTIQUE (FRENCH LINE) .**

Following is the statement, dated March 21, 1961, of Mr. Jacques Veaudelle, Passenger Traffic Manager, 17 State Street, New York, N. Y.:

"In reference to Item 8 appearing on the same Memorandum, please note that to the best of our recollection and after searching our files, we do not find any specific documents issued by our Company pertaining to the Meetings related in that Item.

"In regard to the positions, proposals or votes taken by our Company, our representatives who attended those meetings do not have any specific recollections other than the fact that the decisions taken were arrived at after a general exchange of views representing the opinions of the majority."

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(p. 40)

RESPONSE OF THE DONALDSON LINE LIMITED

Following is the statement, dated March 16, 1961, of Robert S. Dodd, Glasgow, Scotland, with respect to the Conference meetings referred to in Item 8:

"We have no documents, our only records are A.P.S.C. Minutes supplied by the Secretary.

Excerpts From Exhibit 96

"We keep no records of facts or proceedings and cannot recall the vote positions, etc. taken at meetings, 10th March, 3rd May, attended by subscriber.

"Prior to October 1958 we would advise that the representative at that period passed away on 6th November, 1958 and therefore the present representative has no knowledge of these prior meetings."

(p. 41)

**RESPONSE OF HAMBURG-ATLANTIK LINIE
G.m.b.H. & Co. (HAMBURG-ATLANTIC LINE)**

Following is the statement, dated March 20, 1961, of Mario F. Vespa, Vice President, Home Lines Agency Inc., General Agents for Respondents, 42 Broadway, New York 4, N. Y., with respect to the Conference meetings referred to in Item 8:

"Hamburg-Atlantik Linie G.m.b.H. & Co. was established in January 1958 and its passenger vessel, the s.s. HANSEATIC, was placed in service between Germany and Channel ports and New York in July 1958. It was admitted to membership in the Atlantic Passenger Steamship Conference and the Trans-Atlantic Passenger Steamship Conference during that year. Being a relatively newcomer in the trans-Atlantic passenger trade, it has been feeling its way and has not taken a leading role in A.P.S.C. meetings but instead has followed the majority. Hamburg-Atlantik Linie was represented at Trans-Atlantic Passenger Steamship Conference meetings Nos. 444 and 449 by Home Lines Agency Inc., its General Agents for the United States, whose representatives followed Home Lines actions."

Excerpts From Exhibit 96

(p. 42)

RESPONSE OF HOME LINES INC.

Following is the statement, dated March 20, 1961, of Mario F. Vespa, Vice President, Home Lines Agency Inc., General Agents for Respondents, 42 Broadway, New York 4, New York, with respect to the Conference meetings referred to in Item 8:

"Home Lines keeps no record of Atlantic Passenger Steamship Conference Principals or Sub-Committee meetings other than the Conference minutes of such meetings. All A.P.S.C. meetings referred to in this item were attended by Captain Giuseppe Cosulich, as representative of Home Lines. He passed away in September 1960 and Home Lines, therefore, regrets that it is not in a position to answer the questions posed in this item other than to state: .

(1) that it has no record or recollection of having instructed its representative at A.P.S.C. meetings to make any proposals regarding rates of commission to sub-agents; or of any proposals dealing therewith having been made by him, or of him having taken a leading part in any discussions on this subject.

(2) that it has no record of positions taken by its representative but it recollects that his instructions were to support any reasonable proposal to increase rates of commission to sub-agents which may have been found acceptable to a majority of the member Lines, and that to the best of its knowledge and belief such instructions were carried out at all A.P.S.C. meetings at which this subject was discussed,

Excerpts From Exhibit 96

(3) that it does not have in its files any correspondence, memoranda or other documents on the subject of sub-agency commissions other than Conference promulgations,
and

(p. 43)

(4) that the statements contained in 1, 2 and 3 above apply equally to Home Lines Agency Inc., New York, General Agents for Home Lines, and to the positions taken by the representative of that office who attended Trans-Atlantic Passenger Steamship Conference meetings at which the subject of sub-agency commissions was discussed. The only correspondence in its files dealing with rates of commission to sub-agents is a communication of January 20, 1954 from the American Society of Travel Agents, Inc. attaching a questionnaire and agents' commission chart which they requested be completed and returned to them. Particulars were sent to ASTA on February 10, 1954. It should be noted that the Atlantic Passenger Steamship Conference is the body that established the scale of commissions."

(p. 44)

RESPONSE OF INCRES STEAMSHIP CO., LTD.

Following is the statement, dated March 15, 1961, of Vincenzo Berlingeri, President, 39 Broadway, New York 6, N. Y., with respect to the Conference meetings referred to in Item 8:

"To the best of the recollection of our representative at the Conference meetings in question, no specific proposals were made by this Line.

Excerpts From Exhibit 96

"Our representative cannot recollect the position taken at these meetings nor the voting at such meetings nor can he recollect the reason for any positions taken or votes given.

"We regret we do not keep any records of the proceedings at the Conference meetings other than the official minutes issued by the Conference secretary."

(p. 45).

**RESPONSE OF ITALIA SOCIETA PER AZIONI DI
NAVIGAZIONE (ITALIAN LINE)**

Following is the statement, dated March 14, 1961, of Lattes Villasanto, Genoa, Italy, with respect to the Atlantic Passenger Steamship Conference meetings referred to in Item 8:

"With reference to Item 8 of the Motion filed with the Federal Maritime Board, Washington, D. C., by the American Society of Travel Agents (A.S.T.A.) on December 29, 1960, we hereby state the following:

- 1) Our Company never took the initiative to insert in the Agendas for the Meetings the items on which decisions were taken by the ATLANTIC PASSENGER STEAMSHIP CONFERENCE, as detailed in the various Principals' and sub-Committee Minutes listed in the Motion by A.S.T.A. above referred to.
- 2) We have no record of the roll-calls which took place at the Meetings of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE; we are con-

Excerpts From Exhibit 96

sequently unable to provide information regarding individual proposals made; furthermore, in view of the fact that no stenographic record of the discussions is kept, it is obviously not possible for our Representatives—who were not always the same at each Meeting—to have knowledge at this time of the votes given over a period of eleven years (1950-1960).

- 3) Although we lack specific records regarding individual items, our experience of the Conference Meetings enables us to state that the decisions set out in the Principals' and Sub-Committee Minutes in question reflect the unanimous feeling of the ATLANTIC PASSENGER STEAMSHIP CONFERENCE Lines."

Following is the statement, dated March 17, 1961, of Antonio Premuda, General Manager for U. S. and Canada, (p. 46)

24 State Street, New York 4, N. Y., with respect to the Trans-Atlantic Passenger Steamship Conference meetings referred to in Item 8:

"With respect to Item 8 in the Motion filed with the Federal Maritime Board, Washington, D. C., on December 29, 1960 by ASTA, American Society of Travel Agents, there is submitted the statement hereunder:

- 1) The Italian Line never undertook to insert on the agenda, any of the items which resulted in the resolutions incorporated in the Minutes of the meetings of the Trans-Atlantic Passenger Steamship Conference referred to in Item 8 as above.

Excerpts From Exhibit 96

- 2) Since records of the roll-calls at the Meetings of the Conference aforesaid are not available, the Italian Line is not in a position at this time to offer information on the questions discussed. Due to the lack of transcripts of the Meetings attended by Italian Line representatives, who necessarily were not the same persons in the period concerned, there is no way of establishing the positions taken and the votes rendered on matters covering a period of eight years.
- 3) Notwithstanding the unavailability of records relative to specific matters, it can be safely asserted that the resolutions set forth in the existing Minutes listed in the Motion referred to above, resulted from the concurrent views of all the member-Lines in the Trans-Atlantic Passenger Steamship Conference."

(p. 47)

RESPONSE OF NATIONAL HELLENIC
AMERICAN LINE

Following is the statement, dated March 20, 1961, of Mario F. Vespa, Vice President, Home Lines Agency Inc., General Agents for Respondents, 42 Broadway, New York 4, N. Y., with respect to the Conference meetings referred to in Item 8:

"National Hellenic American Line started operations in 1956 and, therefore, was not represented at Atlantic Passenger Steamship Conference or Trans-Atlantic Passenger Steamship Conference meetings be-

Excerpts From Exhibit 96

fore that time. It has no record or recollection of having made any proposals regarding commissions whenever this subject was discussed at meetings at which it was represented, nor does it have any record or recollection of its representatives having taken a leading part in any discussions on the subject which may have been advanced by other member Lines or of itself having made any proposals relative thereto. It was the general policy of its representative to vote with the majority on all subjects, including the matter of commissions. This practice was followed at both A.P.S.C. and T.A.P.S.C. meetings, the Company's representatives following Home Lines' actions in view of the connection between National Hellenic American Line and Home Lines."

(p. 48)

**RESPONSE OF JOHNSTON WARREN LINES
LIMITED (FURNESS WARREN LINE)**

Following is a statement submitted under date of March 21, 1961, by Mr. J. M. Lindlay, Passenger Traffic Manager, Furness, Withy & Company, Ltd., 34 Whitehall Street, New York 4, N. Y., with respect to the Conference meetings referred to in Item 8:

"We have no documents. Our only records are A.P.S.C. Minutes supplied by the Secretary.

"We have no records of voting or proceedings. As for the Meetings specified up to and including 1957, the Officials who were then representing our Company are no longer with us, and we therefore have no recollection of the proceedings.

Excerpts From Exhibit 96

"At the Meeting on the 10th March 1960, the subject was deferred until the Meeting on the 3rd May 1960. On that occasion we accepted the majority decision."

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(p. 54)

**RESPONSE OF DEN NORSKE AMERIKALINJE-A/S
(NORWEGIAN AMERICA LINE)**

Following is the statement, dated March 20, 1961, of Mr. Christian J. Mohn, President, and Mr. John W. Knudsen, Passenger Traffic Manager, 24 State Street, New York 4, New York, with reference to the Conference meetings referred to in Item 8:

"This office does not possess any documents except the official records consisting of Minutes of Meetings of the Trans-Atlantic Passenger Steamship Conference—and the official information we receive, like other Lines, of decisions taken at Atlantic Passenger Steamship Conference meetings.

"This office has not participated in any Atlantic Passenger Steamship Conference meetings and has not been consulted by our Principals as to items, listed under No. 8, discussed by the Principals at the Atlantic Passenger Steamship Conference meetings.

"Our Principals inform us that, apart from the official Minutes of such meetings, they do not have any further documents in the Head Office in Norway. Our Principals also inform us that the representatives attending the Atlantic Passenger Steamship Conference meetings cannot recall the vote, positions taken, etc."

Exhibit 99 for Identification

Letter FROM The Secretary, The Interchange Lines,
3/5 Warwick House Street,
LONDON, S.W.1.

December 9th, 1953.

CONFIDENTIAL

The Secretary,
Atlantic Conference,
65 Sandgate Road,
FOLKESTONE.

Dear Sir,

I am instructed by my Member Lines to advise you that they have had under consideration the question of payment of commission to Passenger Booking Agents.

During recent discussion on this subject the proposal was put forward that Lines should be at liberty to increase the present rate of commission paid to Agents (this is at present 5% on the Australian, New Zealand, Far Eastern and African trade routes).

Whilst this proposal has not been unanimously received, it has been suggested that the whole question of payment of commission may, with advantage, be discussed at a joint Meeting of the Principal Passenger carrying Sea Lines.

My Member Lines would, therefore, appreciate to know whether your Conference would agree to a joint Meeting

Exhibit 99 for Identification

at an early date of The Interchange Lines, Far Eastern Passenger Conference, Atlantic Conference, Australian & New Zealand Passenger Conference and South American Passenger Conference, with a view to achieving concerted action on the question of commission rates.

May I ask you kindly to let me have your reply as early as possible.

Yours faithfully,

(signed) F. E. MEAD.
Secretary.

Petition for Review Served on September 16, 1966

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

[SAME TITLE]

**PETITION FOR REVIEW OF A FINAL ORDER
OF THE FEDERAL MARITIME COMMISSION**

1. This is a petition for review of a final Order of the Federal Maritime Commission adhering upon the same evidence to the same prior "determinations" which this Court had remanded for reconsideration by the Commission because of the absence of supporting findings and of any showing of violation of the relevant statute. The Commission's Order and Report on Remand (two Commissioners dissenting) were served on petitioners on July 20, 1966 and copies are annexed hereto as Exhibit A. The prior proceedings in this Court are reported in — App. D.C. —, 351 F.2d 756 (No. 18,554, June 10, 1965).

Jurisdiction and Venue

2. The jurisdiction of this Court is invoked pursuant to Sections 2 and 4 of the Act of December 29, 1950,²⁷ as amended, 64 Stat. 1129, 1130; 5 U.S.C. Secs. 1032, 1034.

3. Venue is in this Court pursuant to Section 3 of said Act, 64 Stat. 1130; 5 U.S.C. Sec. 1033.

*Petition for Review**Nature of the Proceedings*

4. Petitioners, 23 common carriers by water, comprise virtually all the United States and foreign flag passenger steamship lines regularly serving the Atlantic passenger trade. They file this petition as members of either or both the Trans-Atlantic Passenger Steamship Conference (TAPSC) and the Atlantic Passenger Steamship Conference (APSC). These conferences are successors of conferences in the trans-Atlantic passenger steamship industry through which that international industry has been self-regulated for nearly ninety years. As this Court noted in remanding the Commission's former order, "Congress has recognized that, without such [conference] agreements, competition could become so destructive as to wreck the carriers" (— App. D.C. at p. —, 351 F.2d at —).

5. The present conference agreements involved in the proceedings below, TAPSC Agreement 120 and APSC Agreement 7840, were adopted respectively in 1929 and 1946. Each was initially approved by the Commission* at the time of adoption pursuant to Section 15 of the Shipping Act, 1916, as amended, 39 Stat. 733, 46 U.S.C. §814, and both were frequently modified thereafter with Commission approval. In 1964, however, in a proceeding begun on petition of the American Society of Travel Agents, Inc. (ASTA), the Commission, by Report and Order dated January 30, 1964, directed the Conferences to modify their agreements and procedures regarding the selection, appointment and supervision of conference travel agents. The

* "Commission" is used herein to refer to the Federal Maritime Commission and to its predecessor agencies.

Petition for Review

Conferences thereafter filed with the Commission the modifications ordered with but two exceptions noted below.

The Prior Review in This Court

6. On April 16, 1964, petitioners petitioned for review by this Court of the Commission's Report and Order of January 30, 1964 insofar as the Commission with two members dissenting (a) disapproved the provision of Agreement 7840 which requires unanimous agreement by member Lines to raise or lower the maximum commission rate payable to appointed agents (the "unanimity rule") and (b) disapproved the provision of Agreement 120 which prohibits appointed agents from selling trans-Atlantic passenger transportation on vessels of competing non-conference lines without written conference permission (the "tying rule"). Petitioners sought review of these rulings because they were unsupported by any evidence in the record, did not conform to the statutory standards set forth in the Shipping Act, represented drastic reversals of policy by the Commission and were inimical to the basic structure of the Conferences and the Lines' relationship with their appointed agents.

7. By decision of June 10, 1965, — App. D.C. —, 351 F.2d 756, this Court held that the Commission's disapprovals of the unanimity and tying rules were not based on adequate fact findings and were not shown to be in violation of one of the four specific standards prescribed by Section 15 of the Shipping Act, 1916, 46 U.S.C. §814. This Court thereupon remanded the proceedings to the Commission for reconsideration with directions, as to the unanimity rule:

Petition for Review

"... either to make supporting findings which adequately sustain the ultimate finding that the unanimity rule operates to the detriment of the commerce of the United States, or, if this cannot be done, to vacate that ultimate finding and approve the contract in this respect." (351 F.2d at 760.)

and as to the tying rule:

"... that either an adequately supported ultimate finding be made which warrants disapproval under the statute, or if no such finding can be made on the record, that the tying rule be approved as directed by 46 U.S.C. §814." (351 F.2d at 762.)

The Commission's Proceedings on Remand

8. By notice served on August 18, 1965, the Commission reopened its proceedings for reconsideration of the remanded issues as posed in the opinion of this Court. The notice limited the reopening to the submission of additional briefs and the presentation of oral argument by petitioners, respondents and ASTA. No additional evidence was received to supplement the record previously before this Court.

9. Under date of July 20, 1966, the Commission served its Report on Remand and its implementing Order and again disapproved the unanimity and tying rules, two members again dissenting. In so adhering to its original determinations, the majority did not consider the Commission precluded "from disagreeing with the Court where the

Petition for Review

clear intent of Congress and our own experience and best judgment dictate" (Exh. A, p. 8).

10. Commission disapproval of the unanimity rule is again based essentially upon the same findings that the rule prevents complete and effective service by travel agents, places steamship booking at a competitive disadvantage with airline travel and frustrates the desire of the majority of the steamship lines—findings this Court found inadequate to justify disapproval (351 F.2d at pp. 759-760). Disapproval of the tying rule is again essentially based upon the same application of antitrust prohibitions and lack of showing of a serious transportation need for the rule which this Court held were not specified by the statute as standards for approving or disapproving the rule (351 F.2d at p. 761). Petitioners seek review of these renewed disapprovals not only because of the clear disregard of the statutory requirements as declared by this Court but also because it is now plain that no supporting findings can be made on the record below which would justify the Commission's disapproval of these rules.

Grounds for Relief

11. The Commission's disapprovals of the unanimity and tying rules should be set aside, annulled and permanently enjoined as unlawful and invalid because:

(a) The Commission failed to comply with the mandate of this Court in that its disapprovals are not based on adequate supporting or ultimate fact findings of violations of the standards of Section 15 of the Shipping Act, 1916,

Petition for Review

as required by that decision. Insofar as the disapprovals purport to be based on findings of fact, such findings are not adequately supported by reliable, probative and substantial evidence.

(b) The Commission failed to apply the law as set forth in Section 15 and in the decision of this Court in that the agreement provisions disapproved were not shown to be unjustly discriminatory, to operate to the detriment of the commerce of the United States or to be contrary to the public interest and therefore should have been approved pursuant to Section 15.

(c) The Commission based its disapproval on a theory, contrary to the express holding of this Court, that the statute authorizes disapproval of an agreement on the ground that it runs counter to antitrust principles, and placed upon petitioners the obligation to demonstrate that the agreement is required by a serious transportation need, or in order to secure important public benefits, standards which are not set forth in the Shipping Act, 1916.

(d) The disapprovals exceed the Commission's statutory power and jurisdiction in that they are based on considerations and policies not set forth in the Shipping Act, 1916, or otherwise entrusted to the Commission for enforcement.

Relief Prayed

WHEREFORE, petitioners pray that the Commission's disapprovals of the unanimity and tying rules and the Commission's Order be set aside, annulled and permanently enjoined, that the Commission be directed to approve the

Petition for Review

said rules, and that petitioners have such other and further relief as to the Court may seem just and proper.

Dated: Washington, D.C.
September 16, 1966.

Respectfully submitted,

WARREN E. BAKER
Attorney for Petitioners

Of Counsel:

CARL S. ROWE
FRANK B. STONE
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CHADBOURNE, PARKE, WHITESIDE & WOLFF
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Washington 5, D.C.

and

JOSEPH MAYPER
Trans-Atlantic Passenger Steamship Conference
17 Battery Place
New York, N. Y. 10004

**Order Providing for Use of Joint Appendix in
No. 18,554, etc.**

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20,458 September Term, 1966

AKTIEBOLAGET SVENSKA AMERIKA LINIEN

(SWEDISH AMERICAN LINE), et al.,

Petitioners,

v.

**FEDERAL MARITIME COMMISSION and
UNITED STATES OF AMERICA,**

Respondents.

Before:

**WILBUR K. MILLER, Senior Circuit Judge,
DANAHER and TAMM, Circuit Judges.**

ORDER

This case came on for hearing on petitioners' motion for stay or suspension of the operation of a final order of the Federal Maritime Commission pending review by this court, and said motion was argued by counsel.

Upon consideration whereof, and on consideration of the representations made by counsel with regard to agreement by the parties as to the contents of the record and the

Order Providing for Use of Joint Appendix

procedure for preparation and filing of briefs as may aid in the prompt disposition of this court proceeding, it is

ORDERED by the court that the order of the Commission dated July 20, 1966, is stayed pending final disposition by this court of the petition for review herein, or until further order of the court, and it is

FURTHER ORDERED by the court that the times for filing the briefs and the joint appendix of the parties are fixed as follows:

Petitioners' brief shall be filed on or before October 25, 1966.

Respondents' and intervenor's briefs shall be filed within 30 days after the filing of petitioners' brief.

Petitioners' reply brief, if any, and the joint appendix of the parties shall be filed within 10 days after respondents' and intervenor's briefs have been filed.

The joint appendix in case No. 18,554, *Aktiebolaget Svenska Amerika Linien (Swedish-American Line), et al. v. Federal Maritime Commission and United States of America*, shall be treated as part of the joint appendix in this case; the parties may file their briefs on the aforesaid dates in typewritten or mimeographed form, provided that the briefs shall be filed in xeroxed or printed form not later than December 6, 1966, and the Clerk is directed to set this case for hearing as early in the month of December as the business of this court will permit.

Per Curiam.

**Opinion and Judgment of Court of Appeals for the
District of Columbia Circuit, 372 F.2d 932 (1967)**

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20458

**AKTIEBOLAGET SVENSKA AMERIKA LINIEN
(SWEDISH AMERICAN LINE), ET AL., PETITIONERS**

v.

**FEDERAL MARITIME COMMISSION AND UNITED STATES OF
AMERICA, RESPONDENTS, AMERICAN SOCIETY OF TRAVEL
AGENTS, INC., INTERVENOR**

**On Petition to Review an Order of
The Federal Maritime Commission**

Decided January 19, 1967

**Before WILBUR K. MILLER, Senior Circuit Judge,
and DANAHER and TAMM, Circuit Judges.**

TAMM, Circuit Judge: In a previous decision in this case,¹ we remanded to the Federal Maritime Commission because of our determination that the Commission's decision lacked adequate findings to establish and support the Commission's conclusions. We called upon the

¹ *Aktiebolaget Svenska Amerika Linien, et al. v. Federal Maritime Commission, et al.*, 122 U.S. App. D.C. 59, 351 F. 2d 756 (1965).

*Opinion and Judgment of Court of Appeals
for the District of Columbia Circuit*

Commission in that decision to give further consideration to the two controverted issues in the case, *id est*, the legality of the so-called "unanimity rule" and the legality of the "tying rule."

On remand, the Commission, without taking additional testimony or evidence, accepted additional briefs from the parties, heard oral argument, and reached, by a divided vote, the same conclusions recorded in the earlier proceedings. The Commission's Report and Order on Remand, served July 20, 1966, containing these restated determinations, is again challenged by the same petitioners who had attacked the Commission's earlier action. In its present order, the Commission again strikes down both the provision of the Conference agreements requiring unanimous action of Conference members to fix or alter maximum commissions payable to travel agents (unanimity rule) and the provision of the Conference agreements prohibiting travel agents appointed by the Conference from selling tickets on competing non-Conference steamship lines without prior permission from the Conference (tying rule). Both of these provisions are described in detail in our earlier opinion in this case, as are the identities of the parties, the provisions of pertinent statutes, and the governing case law.

There is no doubt whatsoever that the petitioner Conference was authorized by Section 15 of the Shipping Act, 46 U.S.C., § 814,² to act in concert in all shipping matters

² Section 15 of the Shipping Act, 1916 (hereinafter the "Act"), 39 Stat. 733, as amended, 46 U.S.C. § 814 provides in pertinent part:

"Every common carrier by water, or other person subject to this chapter, shall file immediately with the Commission a true copy,

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until and unless the actions were found illegal by the Commission as being detrimental to the commerce of the United States and contrary to the public interest within the meaning of those terms as contained in this statute. The petitioners were, consequently, free to adopt, utilize, and be governed by a unanimous vote requirement on the subject of maximum commissions to travel agents, unless the respondent found the provision was, in fact, detrimental to the commerce of the United States or contrary to the public interest, in accord with the statutory requirements and limitations of 46 U.S.C. § 814. The same principle, of course, applies to the Conference action relating to the "tying rule." We remanded the Commission's earlier opinion and

or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this chapter, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term 'agreement' in this section includes understandings, conferences, and other arrangements.

"The Commission shall by order, after notice and hearing, disapprove, cancel or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this chapter, and shall approve all other agreements, modifications or cancellations. . . ."

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order to permit the Commission to make findings based on evidence of record, if any there be, to support its conclusions that the Conference actions on those subjects were illegal under the statute.

The case now returns to us upon the same evidentiary record which was before us when we previously reviewed the proceedings. True it is that the Commission's present opinion enlarges upon its previously stated views and is couched at various points in the phraseology of the statute. Careful analysis of the record, however, convinces us that nothing substantial has been added to support, sustain, or even justify the Commission's condemnation and voiding of the Conference actions. As the two dissenting opinions of Commission members accurately point out, the Commission Report lacks sufficient basis in supporting facts or evidence of record and consists only of rationalizations, conjecture and opinion.

We are not satisfied that the Commission has made adequate response to our mandate to eliminate the doubts and problems which we pointed out in our prior opinion. We conclude, consequently, that the Commission's decision is arbitrary and capricious and not supported by substantial evidence on the record considered as a whole.

We see no purpose in further remand, and, accordingly, we reverse the Commission action.

Reversed.

Judgment

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1966

No. 20458

AKTIEBOLAGET SVENSKA AMERIKA LINIEN (SWEDISH
AMERICAN LINE), ET AL., PETITIONERS

v.

FEDERAL MARITIME COMMISSION AND UNITED STATES OF
AMERICA, RESPONDENTS, AMERICAN SOCIETY OF TRAVEL
AGENTS, INC., INTERVENORS

On Petition to Review an Order of the
Federal Maritime Commission

Before WILBUR K. MILLER, Senior Circuit Judge,
and DANAHER and TAMM, Circuit Judges.

JUDGMENT

This case came on to be heard on the record from the
Federal Maritime Commission, and was argued by counsel.

On consideration whereof, it is ordered and adjudged
by this court that the order of the Federal Maritime Com-
mission on review in this case is hereby reversed.

Per Circuit Judge Tamm.

Dated: January 19, 1967.

Filed January 19, 1967, United States Court of Appeals
for the District of Columbia Circuit, Nathan J. Paulson,
Clerk.